

# STATE POLICE COMMISSION RULES

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## **CHAPTER 1**

### **DEFINITIONS**

The following words and phrases when used in these Rules shall have the following meaning ---

**Abandonment of Position** - the desertion by a classified employee of his position.

**Acceptable Rating** - a performance appraisal rating of either "Exceptional" or "Successful".

**Action** - a personnel transaction affecting a change to a person's employment or to a position.

**Administration** - refers to the State Police Commission.

**Allocation** - the determination of the job to which a position is deemed to pertain.

**Anniversary Date** - the date at which an employee is eligible for a merit increase in pay measured from the first date of continuous State Police Service, normally one (1) year from date of hire. All time experienced in the State Police Service is counted as eligible time. If service time has been interrupted by breaks in service, add the composite of all State Police Service experience to the new hire date to determine the employee's anniversary date.

**Annual Leave** - is leave with pay granted to an employee for the purpose of rehabilitation, restoration and maintenance of work efficiency, or transaction of personal affair.

**Appeal** - classified employees have a right of review by the State Police Commission of certain disciplinary actions and certain discriminatory actions more specifically described in Commission Rule 13.1.

**Applicant** - a person who has completed and submitted a cadet application to the Louisiana State Police Commission seeking a Trooper position with the Louisiana State Police.

**Appointing Authority** - the Deputy Secretary of the Department of Public Safety and Corrections, Public Safety Services pursuant to LA R.S.36:401, et seq., is the appointing authority for the

Office of State Police and have the power to make appointments to and removals from positions in the State Police Service.

**Appointment** - the designation, by an appointing authority of an employee to a certain office or position and his acceptance thereof.

**Article or State Police Article** - Article X, Part IV of the Constitution of the State of Louisiana of 1974.

**Base Supplement pay** - means additional pay above the range maximum, when authorized by the Commission and approved by the Governor under limiting factors (e.g., by job titles, geographic areas, organizations, etc.) it deems appropriate when market and employment conditions require such supplement in order to maintain competent and experienced staff, which is treated as a part of base pay.

**Cadet** - is an applicant who has been accepted into the State Police Training academy, and who will undergo training in order to become a State Police Trooper.

**Career Field** - any one of a job series or group of positions considered having a close occupational relationship and categorized as such by the State Police Commission.

**A career field** - shall include a job series, or series of jobs created to provide a natural progression. The career field(s) used by an agency in a layoff shall be the career field(s) in the official career field listing before the layoff plan is received by the State Police Commission.

**Cause** - means conduct which impairs the efficient or orderly operation of the public service.

**Certifiable Scores** - a range of scores on a selection procedure which would likely be in the top five grade groups on a certificate of eligibles if one were issued.

**Certificate of Eligibles** - a list that represents the top five grade groups or rank groups from a promotional examination.

**Change in Position** - for the performance evaluation system, means either a voluntary demotion or the assignment of an employee to another position in the same or a different job with significantly different duties from those of the position he

previously held, or the movement of an employee to another position within the State Police Service.

**Civil Service** - The Louisiana State Police Commission was created by constitutional amendment to provide an independent civil service system for cadets and all regularly commissioned full-time law enforcement officers employed by the Department of Public Safety and Corrections, Office of State Police, or its successor, who are graduates of the State Police training academy of instruction and are vested with full state police powers, as provided by law.

**Class** - for these Rules, means the same as 'Job'.

**Classification Plan** - the hierarchical structure of jobs, arranged in pay grades according to job evaluation results.

**Classified Position** - any office or position in the Classified Service.

**Classified Service** - any person in the State Police Service, except those specifically placed in the unclassified service by these Rules by the Commission or exempt from the classified service by the Article.

**Commission** - the State Police Commission.

**Commuting Area** - the geographic area in which employees are subject to competition for a layoff, which shall encompass either

1) the parish of the abolished position(s) or 2) an expanded area which will be defined by the agency and will consist of the parish of the abolished position(s) plus one or more parishes bordering the parish of the abolished position(s).

**Compensation** - any salary, wages, fees, special pay considerations, or any other cash payment directly to an employee as a result of service rendered in any position. It shall not include reimbursement for travel incurred in the performance of official duties nor the authorized assignments on utilization of automobiles, houses or other movable property of the state or other governmental entity.

**Contempt of the Commission** - contempt of the Commission or its Referee is an act or omission tending to obstruct or interfere with the orderly discharge of the responsibilities and duties of

the Commission or its Referee, or to impair the dignity of the Commission or its Referee or respect for their authority.

**Continuous State Service** - uninterrupted status of a Classified employee of a State agency or agencies exclusive of interruption caused by authorized leave of absence, layoff of not more than one year, military service consisting of active duty in the armed forces of the United States for not more than six years of voluntary service or an indefinite period of involuntary service, or separation of not more than thirty (30) calendar days.

**Demotion** - a change of an employee's position from one grade level to a lower grade level.

**Department** - any legally constituted agency, board or commission whose employees are in the State Service as defined by the Article.

**Department Preferred Reemployment List** - a list of Permanent employees who have been laid off or otherwise affected by a layoff (e.g., displaced and/or demoted in lieu of layoff, changed in duty station, reassigned). Employees on such a list are given preferential hiring rights in the department or agency affected by a layoff.

**Designated Holiday** - a holiday or part of a holiday an employee observes, in lieu of a regular holiday observed by his agency, because the regular holiday or a portion thereof fell on the employee's regular day off.

**Detail to Special Duty** - the temporary assignment of an employee to perform the duties and responsibilities of a position other than the one to which he is regularly assigned, without prejudice to his rights in and to his regular position.

**Director** - the Director of the State Police Commission.

**Disciplinary Actions** - include only the following: dismissals, suspensions without pay, reductions in pay, involuntary demotions and written reprimands.

**Discrimination** - consideration in the appointment, removal, discipline or any other action which adversely affects a probationary or permanent employee and is based on any non-merit

factor relating to the employee's religious or political beliefs, gender or race.

**Efficiency Rating** - the service rating of an employee on the basis of satisfactory or unsatisfactory.

**Eligibility List** - a list of applicants who have successfully passed the entrance exam and are eligible for the State Police Academy. Those applicants who have been advised that they were not selected for the academy class for which they applied may submit a letter to State Police Commission requesting that their names be placed back on the eligibility list.

**Eligible** - any person who, after receiving a final passing rating in a State Police Commission examination.

**Employee Affected by a Layoff** - one who has experienced any consequence of a layoff such as separation, displacement, demotion, reassignment, or change in duty station.

**Evaluating Supervisor** - shall be the employee's immediate supervisor or someone in the employee's supervisory chain of command unless unavailable, in which case, the appointing authority or his designee shall designate a person most familiar with the employee's performance.

**Exceptional** - a rating on a performance evaluation which reflects that work and behavior consistently exceeded the performance criteria.

**Exempt** - is a term referring to those groups of employees that are exempt from the overtime provisions of the Fair Labor Standards Act.

**Final Offer of Employment** - After passing the medical exam, drug test and psychological evaluation, candidates will receive a letter for a Final Offer of Employment from Louisiana State Police. They will be required to sign and return the letter before a specified deadline.

**Furlough** - a period of leave without pay required of employees by an appointing authority in order to avoid a layoff.

**General Increase** - an across the board wage and salary increase designed to bring pay in line with increases in cost of living.

**Hiring Rate** - the beginning rate at which persons are hired into a job.

**Individual Pay Rate** - the rate of pay assigned to a given individual. Individual pay rates may vary on the same job as a function of service in grade, performance or some other basis for establishing variation in employee's merit.

**Initial Military Active Duty for Training** -training of not less than three months, which is an obligation for members of the Reserve and National Guard who have not previously served on active duty.

**Job or Job Title** - is a homogeneous cluster of work tasks. Taken as a whole, the collection of tasks, duties and responsibilities constitutes the assignment for one or more individuals whose work is the same nature which is performed at the same skill/responsibility level. This definition means the same as "Class".

**Job Analysis** - a comprehensive, systematic breakdown that identifies the relevant components in a particular job through a detailed description of work behaviors and tasks performed.

**Job Appointment**- a temporary appointment of an employee for work of a temporary nature or to substitute for another employee.

**Job Specification** - a summary of the most important features of a job including the general nature of the work performed, specific task responsibilities, and employee characteristics (including skills) required to perform the job. A job specification focuses on the job itself and not any specific individual who might fill the job.

**Layoff** - the non-disciplinary separation of an employee from a position because of lack of work or a lack of funds or the abolition of a position.

**Layoff Avoidance Measures** - action taken by an appointing authority and approved by the Director and/or the commission to help prevent a layoff. These include early retirement incentives, with holding of merit increases, reductions in pay, reductions in work hours and furloughs.

**Leave Without Pay** - leave or time off from work, other than a disciplinary suspension as provided for in Chapter 12, which is



granted or ordered by the appointing authority and during which the employee receives no pay.

**Merit Increase** - an adjustment to an individual pay rate based on performance, or some other individual equity basis.

**Military Active Duty** - full-time duty in the active military service, other than active duty for training.

**Military Active Duty for Training** - full-time paid duty in the active military service for training purposes. This may be indicated on military orders as "ADT" (Active Duty for Training), "FFTD" (Full-time Training Duty), "AT" (Annual Training), or IADT (Initial Active Duty for Training).

**Military Training Duty** - includes active and inactive duty for training such as annual two-week summer encampments and cruises, weekly and weekend drills or training meetings, attendance at service schools for refresher training or the upgrading of military skills, field exercises, and the like.

**Needs Improvement / Unsuccessful** - a rating on a performance evaluation which reflects that work and/or behavior did not meet the performance criteria.

**Notification of Layoff Avoidance Measures or Layoff** - the appointing authority shall, as soon as it is determined that a layoff or a layoff avoidance measure is necessary, make a reasonable attempt to notify all employees in the area(s) to be affected.

**Official Domicile** - is the following:

(a) The official domicile of an officer or employee assigned to an office, exclusive of temporary assignments, shall be the city in which the office is located. (b) The official domicile of a person in the field shall be the city or town nearest to the area where the majority of work is performed, or such city, town, or area as may be designated by the department head, provided that in all cases such designation must be in the best interests of the agency and not for the convenience of the employee.

**Official Holiday** - either the employee's actual or designated holiday, whichever is selected by the appointing authority for overtime compensation purposes.

**Organization Unit** - any administrative agency or part thereof designated by rule or regulation hereunder as a unit for purposes of administering these Rules.

**Original Appointment** - initial appointment of a person to a classified position by provisional, probationary or job appointment.

**Pay Grade** - a pay level at which jobs are assigned by job evaluation and/or market adjustment.

**Pay Plan** - a schedule of pay rates or ranges and a list showing the assignment of each job in the job evaluation plan to one of the rates or ranges and includes rules of administration.

**Pay Range** - the range of pay rates from the lowest salary rate to the highest salary rate set for a pay grade.

**Pay Structure** - the organization of pay grades and ranges or salary rates established for jobs within the classified service.

**Pay Structure Adjustment** - a change in the salary rates for all pay grades to maintain a general competitive level with the market for recruitment.

**Performance Adjustments** - means an adjustment to individual pay rate based upon performance, or some other individual equity basis.

**Performance Evaluation System** - a tool used to measure individual performance on all classified employees.

**Performance Evaluation year** - shall be July 1<sup>st</sup> through June 30<sup>th</sup> of each year.

**Performance Appraisal Rating** - the overall rating of an employee, made in accordance with the performance appraisal system established by these Rules.

**Personnel Action** - a transaction affecting a change to the status of a person's employment.

**Political Activity** - an effort or activity to support or oppose the election of a candidate for political office or, to support

or oppose a particular political party in an election, other than party registration.

**Position** - any office and any employment in the classified Service. Position for job evaluation and pay purposes means a collection of duties and responsibilities assigned to an individual employee. Multiple positions may constitute a job.

**Preference Employee** - an employee who is an ex-member of the armed forces and his or her dependents as defined in Rule 7.11.

**Probationary Appointment** - appointment of a person to serve a working test period in a position.

**Progress Review** - a scheduled meeting between an employee and his supervisor in which they discuss the employee's accomplishments and possible problems in performance (e.g., performance standards), and in which performance criteria is reviewed and revised if necessary.

**Promotion** - a change of a permanent employee in the Classified Service from a position of one job to a position of another job assigned to a higher pay grade.

**Promotional List** - a list, established in conformity with these Rules, of permanent employees who have demonstrated their fitness for a position of a higher grade by successfully passing an examination for such higher job position and are eligible for promotion within the same department or transfer and promotion from another department.

**Provisional Appointment** - a temporary appointment of a nonpermanent employee to a position without an adequate eligible list, until the appointed employee demonstrates the required skill level to qualify for the job.

**Public Hearing** - a hearing held after public notice of at least 24 hours, at which any person may have a reasonable opportunity to be heard, in accordance with such rules and regulations as may be adopted by the Commission.

**Reallocation** - a change in the allocation of a position from one job to another in which the duties of the position have undergone a change.

**Reassignment** - the change within the same department of a probationary or permanent employee from a position in one job to

another position in a different job, both jobs of which have the same pay range.

**Red Circle Rate** - an individual pay rate that does not match an established salary rate of the assigned pay grade for the position occupied.

**Reemployment** - the noncompetitive appointment of a person based on permanent status attained in former employment in the Classified Service.

**Department Preferred Reemployment List** - an employee who is reemployed in a permanent position following certification from a department preferred reemployment list shall have permanent status in his position.

**Open Preferred Reemployment List** - an employee, who is reemployed, other than on a temporary basis, from an open preferred reemployment list shall serve a probationary period as provided in Chapter 9.

**Referee** - the Commission may appoint its legal counsel as a Referee to hear appeals in lieu of the Commission and recommend a decision to the Commission.

**Regular or Permanent Appointment** - the status attained by a classified employee upon the successful completion of his probationary period.

**Reinstatement** - the restoration to duty and pay status, under the conditions set forth by the restoring authority, of a former classified employee pursuant to an order by the Commission or a court.

**Removal or Dismissal** - the termination of employment of an employee for cause.

**Reserve Component** - consists of members of the National Guard and Reserves of all Branches, officers and enlisted personnel, who perform active duty, active duty for training or inactive training duty.

**Resignation** - the voluntary termination, including retirement, by an employee of his employment in the Classified Service.

**Retitle** - occurs when the revision in the job specifications results in a change in the job title.

**Salary Rate** -a pre-established and designated rate of pay within the pay range for each job.

**Second Level Supervisor** - an immediate supervisor's supervisor.

**Service Rating** - the individual rating of an employee, made in accordance with the service rating system established by these rules.

**Shift Differentials** -extra pay allowances made to employees who work nonstandard hours.

**Sick Leave** -leave with pay requested by and granted to an employee who is suffering from an illness, disability or other physical condition which prevents him from performing his usual duties and responsibilities or who requires medical, dental, optical or psychological consultation or treatment.

**State Police Service** - is divided into the unclassified and the classified service.

**State Police Academy**-a program in which the cadet is trained and educated to become self-disciplined, vocationally competent, mentally mature, physically sound, emotionally stable, and a leader in the community.

**State Service**- for layoff and layoff avoidance measures, means the total length of Classified State Police Service in the equivalent full-time years, months, and days as an employee of Louisiana State Police.

**Successful** - a rating on a performance evaluation which reflects that work and behavior met the performance criteria.

**Suspension** - the enforced leave without pay of an employee for disciplinary purposes.

**Title Change** -a change in the title of the class to which a position is allocated without change in the position is allocated without change in the position's duty and responsibility content.

**Transfer** -the change of an employee from a position in one department to a position in another department without change in

probation or permanent status and without a break in service of one or more working days.

**Unacceptable Rating** - a performance appraisal rating of either "Needs Improvement" or "Unsatisfactory".

**Uniform Pay Plan** - a pay plan in which the pay structure and administrative rules are uniformly applicable to all agencies for positions of the Classified Service.

**Withholding of Merit Increases to Avoid Layoff** - when an appointing authority determines that it is necessary to withhold merit increases, of all employees under his jurisdiction in order to avoid a layoff, he may do so, subject to the provisions as described in Chapter 17.

**Work Period** - for each full-time employee in the classified service, shall be eighty (80) hours in a two week period.

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**CHAPTER 2**  
**ORGANIZATION, RULES, PROCEDURES AND POWERS**  
**OF THE STATE POLICE COMMISSION**

**2.1 Election of the Chairman and Vice-Chairman**

(a) The members of the Commission shall meet and organize by electing one of its members Chairman and one of its members Vice-Chairman. In case of a vacancy in either office, the Commission shall elect a replacement from among its members.

(b) The Chairman and Vice-Chairman shall be elected at the first meeting held following December 31 of each year.

**2.2 Commission Meeting Dates**

The Commission shall meet at such time and place as may be fixed by the Commission, the Chairman, or the Director. Notice of each meeting shall be given to all members of the Commission.

**2.3 Rules of Order**

The Commission shall not be bound by rules of order, evidence, or procedure in its meetings, hearings, or investigations except such as it may itself establish.

**2.4 Meetings Open to the Public**

- (a) All meetings and hearings of the Commission shall be open to the public except executive meetings.
- (b) The Commission may hold an executive meeting upon affirmative vote of two-thirds of its constituent members present, taken at an open meeting for which notice has been given pursuant to Rule 2.5. No final or binding action shall be taken during an executive meeting except as provided herein.
- (c) The Commission may hold an executive meeting for one or more of the following reasons:
  - (1) Discussion of the character, professional competence, or physical or mental health of a person, provided that

such person may require that such discussion be held at an open meeting.

- (2) Strategy sessions or negotiations with respect to collective bargaining, prospective litigation after formal written demand, or litigation when an open meeting would have a detrimental effect on the bargaining or litigation position of the Commission.
- (3) Discussion regarding the report, development, or course of action regarding security personnel, plans, or devices.
- (4) Investigative proceedings regarding allegations of misconduct.
- (5) Cases of extraordinary emergency, which shall be limited to natural disaster, threat of epidemic, civil disturbances or other matters of similar magnitude.
- (6) Discussion of any matter deemed confidential by these Rules, or State or Federal Law or Regulation.
- (7) Consideration and discussion of the merits of any appeal filed pursuant to these Rules. Final and binding action may be taken during an executive meeting held to discuss and decide such an appeal.

## **2.5 Notice of Meetings**

(a) The Commission shall give written public notice of any regular, special, or rescheduled meeting no later than 24 hours before that meeting. Such notice shall include the agenda, date, time, and place of the meeting, provided that upon the approval of two-thirds of the members present at a meeting of the Commission, the Commission may take up a matter not on the agenda. In cases of extraordinary emergency, such notice shall not be required; however, the Commission shall give such notice of the meeting as it deems appropriate and circumstances permit.

(b) Written public notice shall include:

- (1) Posting copy of the notice at the office of the director no less than twenty-four (24) hours before the meeting.



- (2) Sending a copy of the notice to any member of the news media who requests notice of meetings of the Commission.

## **2.6 Quorum and Voting**

- (a) Four (4) members of the Commission shall constitute a quorum for the transaction of business.
- (b) The concurrence of a majority of the members present shall constitute a ruling upon an item of business then before the Commission.
- (c) In the event of a tie vote the Commission may, in its discretion;
  - (1) Refer a transcript of the record of the matter under consideration to one or more absent members, who shall then vote; or
  - (2) Continue the matter for consideration at a later Meeting;
- (d) Temporary absence during the consideration of an item of business shall not disqualify a member from voting on said item.

## **2.7 Secretary to the Commission**

The Director shall act as Secretary of the Commission and shall keep adequate records and minutes of its business and official actions.

## **2.8 Minutes of the Proceedings**

The minutes of the proceedings of the Commission shall be prepared and maintained by the Director on behalf of and subject to the approval of the Commission.

## **2.9 Powers of the Commission**

The Commission is empowered:

- (a) To represent the public interest in the improvement of personnel administration in the Department of Public Safety & Corrections, Office of State Police, whose personnel

practices are governed by the Article and the State Police Commission Rules.

(b) To appoint, review, remove and discipline the Director.

(c) To conduct investigations whenever it has reason to believe the provisions of the State Police Service Article or Rules are being violated or have been violated by any person or Department of Public Safety & Corrections, Office of State Police; and to hold public hearing when charges of such violations have been filed with it. The Commission may issue appropriate orders in any such case, in addition to those orders provided for in Subsections (h) and (i) of this Rule.

(d) To make, alter, amend and promulgate Rules for the impartial administration and regulation of the State Police Service as authorized by the State Police Service Article and otherwise to provide for the establishment and maintenance of an independent Civil Service system.

(e) To adjudicate appeals of disciplinary actions taken by the appointing authority. To hear commissioned State Police officer's complaints that they have been discriminated against because of their political or religious beliefs, sex or race. To provide decisions that are consistent with the basic tenets of the merit system, the State Police Service Article, the State Police Commission rules, existing jurisprudence and equity and improve the appeal and discipline process.

(f) To perform such other acts as may from time to time be required of it by the Constitution or by Statute.

(g) To take such steps as may be necessary to maintain proper order and decorum during the course of its hearings and other proceedings consistent with judicial resolution of matters coming before it for consideration.

(h) To issue orders withholding compensation from any person who, after investigations by public hearings, has been found by the Commission to be employed or paid by the State contrary to the provisions of the Constitution or the Rules adopted there under. Such orders may be directed to the officer having authority to approve the payroll or

assign the paycheck for such employee; and the officer to whom it is directed and any other person to whom such order is directed shall make no payment of compensation or authorize the making of any such payment to such person until authorized by the Commission upon penalty of personal liability for the sum so paid contrary to the order of the Commission and such other penalties as are otherwise provided by the Constitution and/or the Rules.

(i) To enforce its rules, regulations, and orders in the courts of this State by mandamus or injunction suits.

(j) Ensure that independent audits of the Commission's accounts and equipment are conducted regularly.

## **2.10 Adoption, Amendment or Repeal of Rules; Emergency Rule Changes**

(a) Except as provided for herein in Rule 2.10 (b), the adoption, amendment or repeal of any rule shall be approved by the Commission only after fifteen (15) days written notice and approval in a public hearing, and such adoption, amendment or repeal of any rule shall become effective upon approval of the Commission, unless the Commission specifically provides another effective date.

(b) If the Commission finds that an imminent peril to the public health, safety or welfare or another emergency requires adoption of a rule change without compliance with

Rule 2.10(a), the adoption, amendment or repeal of any rule may be approved by the Commission.

(c) Repealed, November 20, 1995

(d) Repealed, November 20, 1995

(e) Repealed, November 20, 1995

## **2.11 Contempt of the Commission**

A contempt of the Commission or its Referee is an act or omission tending to obstruct or interfere with the orderly discharge of the responsibilities and duties of the Commission or its Referee, or to impair the dignity of the Commission or its Referee or respect for their authority.

A contempt of the Commission includes, but is not limited to , any of the following acts:

(a) Willful failure to comply with a subpoena or summons to appear before the Commission or its Referee, proof of service of which appears of record.

(b) Willful violation of an order excluding, separating, or sequestering a witness

(c) Refusal to take the oath or affirmation as a witness, or refusal of a witness to answer a non-incriminating question when ordered to do so by the Commission or its Referee.

(d) Insolent or disorderly behavior toward the Commission or an attorney or other officer or Referee of the Commission, tending to interrupt or to interfere with the business of the Commission or its Referee or to impair its dignity or respect for its authority.

(e) Breach of the peace, boisterous conduct, or violent disturbance tending to interrupt or to interfere with the business of the Commission or its Referee or to impair its dignity or respect for its authority.

(f) Use of insulting, abusive or discourteous language by an attorney or other person before the Commission or its Referee, or in a motion, plea, brief or other document filed with the Commission or its Referee in irrelevant criticism of the Commission, a Commissioner, an attorney, the Director or his staff, or an officer or Referee of the Commission.

(g) Action by any person taken or ordered to be taken without approval of the Commission when such approval for the actions is required by either the State Constitution or by the State Police Commission Rules.

(h) Failure of any person to comply with any order or directive of the Commission unless otherwise stated by a Court of proper jurisdiction or unless within the time limits for such compliance provided by applicable rule or law.

(i) Willful failure of an attorney to appear at the time and place set for the hearing in which he is to participate.

#### **2.11.1 Cooperation of Persons Within the State Police Service with the Department Of State Civil Service**

(a) Upon request by certified letter from the Director of the Department of State Civil Service, or his representative, all persons within the State Police Service so notified shall fully cooperate with any public investigation being conducted by the Department of State Civil Service, including being interviewed and truthfully answering all questions and/or providing all requested documents.

(b) Failure of any person within the State Police Service to fully and truthfully cooperate in public investigations being conducted by the Department of State Civil Service shall constitute contempt of the State Police Commission, and such persons shall be punished accordingly.

#### **2.12 Procedure for Punishing for Contempt**

(a) When a person has committed a contempt of the Commission or a Referee in the presence of the Commission or a Referee, he may be found guilty and punished therefore by the Commission or Referee forthwith, without any trial other affording him an opportunity to be heard orally by way of defense or mitigation.

(b) When a person is charged with committing a contempt outside of the presence of the Commission or a Referee, he shall be tried by the Commission or the Referee on a Rule to show cause alleging the facts constituting the contempt. The Rule may be issued by the Commission or Referee on its own motion, or on motion of the Director.

(c) A copy of the motion and of the Rule shall be served on the person charged, in the manner of a subpoena, not less than forty-eight hours prior to the time assigned for trial of the Rule.

(d) If a person charged with contempt is found guilty, the Commission or a Referee shall render an order reciting the facts constituting the contempt, adjudging the person

charged with the contempt guilty thereof, and specifying the punishment imposed.

- (e) Should a person served in accordance with this Rule fail to appear at the time, date, and place set for the hearing on the Rule, the Commission or Referee may order any law enforcement officer to apprehend and to bring before the Commission or Referee the person charged with contempt, to proceed with the hearing in the absence of the person charged, or to institute proceedings before the judiciary of this State as the Commission or Referee deems proper.

### **2.13 Penalties for Contempt**

In addition to that which is provided for in these rules, the Commission or a Referee may punish a person adjudged guilty of contempt of the Commission or the Referee by a fine of not more than five hundred dollars (\$500.00).

### **2.14 Commanding Immediate Presence**

In addition to that which is provided for herein, the Commission or a Referee may order any law enforcement officer to locate and bring before the Commission or the Referee, any person who fails to appear at a hearing pursuant to a subpoena if proof of service appears of record and if the immediate presence of that person will facilitate the progress of the subject hearing.

### **2.15 Opportunity to Address the Commission**

- (a) In order to inform itself, so as to better perform its executive and legislative functions, during regularly or specially scheduled meetings, or otherwise as determined by the Commission, the Commission may provide an opportunity for employees and/or others to address the Commission on subjects relevant to its jurisdiction.
- (b) Matters relating to specific individual circumstances, which are, may or should be the subject of an appeal to the Commission, and/or requests for specific relief for individuals shall not be heard during such proceeding.
- (c) Except as provided by Rule 2.5(a), only persons and/or issues scheduled by agenda prior to the meeting may be heard during such proceeding.

d) Employees and/or others wishing to be placed on the Commission's agenda for such purpose must make a written request for such, to be received by the Director at least ten (10) days prior to the meeting at which they wish to appear. The request to appear shall state the topic and nature of the appearance and of the information to be presented to the Commission, in the absence of which, such request shall not be considered by the Director. The Director or the Commission may, by policy, limit the amount of time allotted to individuals and/or the total amount of time allotted to such proceeding.

(e) Within the Director's discretion, the Director shall determine whether a request is placed on the Commission's agenda, and the number of persons to be placed on a particular agenda. Except where such is impracticable, at least five (5) days prior to the Commission meeting, the Director shall send notification to or otherwise notify the person making the request that they have been placed on the Commission's agenda and of the date, time and place of such appearance, or that the request has been declined or not considered. When a request is declined or not considered, the Director shall state the reason for such in writing, a copy of which shall be sent to each Commission member.

**CHAPTER 3**  
**DUTIES OF THE DIRECTOR**

**3.1 Duties of the Director**

It shall be the duty of the Director

- (a) To serve as the executive and administrative head of the State Police Commission and direct and supervise all of its administrative functions.
- (b) To attend all meetings of the Commission and to act as its secretary and keep minutes of its proceedings.
- (c) To establish and maintain a roster of all employees within the State Police Service, which roster shall indicate as to each employee the class title of the position held, the salary or pay, any change in class title, pay or status and any other necessary data.
- (d) To appoint, review, remove and otherwise discipline, unclassified State Police Commission personnel, and such experts and special assistants as may be necessary to carry out effectively the provisions of the State Police Service Article and Rules, and exercise powers and duties to the extent prescribed by the Commission appointing him.
- (e) Consistent with the State Police Service Article and the Rules, to formulate and prescribe procedures, and to publish them in a Personnel Manual; conduct examinations; maintain a list of eligibles; and to certify qualified persons for appointment within the State Police Service.

Permanent appointments and promotions in the classified State Police Service shall be made only after certification by the Director under a general system based upon merit, efficiency, fitness, and length of service, as ascertained by examination which, so far as practical, shall be competitive.

- (f) To develop, in cooperation with the appointing authority of the Office of State Police, training, educational, and safety programs for all employees governed by the State Police Service Article.
- (g) Implement policies as well as create a strategic plan with annual goals and objectives to include the financial and administrative management of the agency. To make and publish annual reports regarding the work



of the Commission, and such special or other reports upon request by the Commission.

- (h) To perform any other acts or functions which are necessary or desirable to carry out the purposes of the State Police Service Article, or which he may be directed to perform by the Commission or the Chairman.
- (i) To serve as referee in employee appeals or to appoint the Commission's Attorney to serve as referee when needed.
- (j) Subject to review by the Commission, to prepare and submit budget requests covering the estimated costs of administering the Commission.
- (k) To act between meetings of the Commission on routine matters requiring Commission approval. Subject to the provisions of Sub-section (n) of this Rule, any such action of the Director shall be reported to the Commission at its next meeting and unless approved by the Commission at such meeting, shall be rendered invalid.
- (l) To make such investigations as may be necessary to enforce the provisions of the State Police Service Article and Rules and to determine the qualifications and suitability of applicants for employment in the Classified Service.
- (m) To establish mandatory grievance procedures within each department to provide the means to resolve employee complaints and other personnel problems not appealable to the Director or the Commission under the State Police Service Article.
- (n) To act between meetings on piecemeal Classification and Pay Plan matters requiring Commission approval. Any such action by the Director shall be reported to the Commission at the next public hearing called to consider Classification and Pay Plan matters and unless approved by the Commission following such hearing, shall terminate.
- (o) To review and approve or disapprove State contracts for personal services, prior to their effective date, between State Police Commission and any instrumentality thereof, or between the State Police Commission and any persons, firms, corporations or other entities rendering personal services to or on

behalf of the State Police Commission.

- (p) To develop and propose to the Commission uniform classification and pay plans and amendments thereto.
- (q) To develop and propose to the Commission, rules and amendments thereto governing employment conditions for employees in State Police Service within the Classified Service.
- (r) To establish and implement, in accordance with established policy, an affirmative action program to assure equal employment opportunity in the Classified Service of State government.
- (s) To notify the State Police Commission of any proposal which would affect the pay of jobs in the protective services, concurrent with the issuance of the State Police Commission monthly agenda and supplemental agenda.
- (t) Present a monthly report to the Commission detailing all expenditures for the previous month. The Director shall also provide, if requested by any commission member, documentation in support of this report.
- (u) To provide written notice of any vacancy to the Office of the Governor, the Director of the Office of Boards and Commissions, and to the University Presidents enumerated in Article X, Part IV, Section 43(C) of the Louisiana Constitution of 1974. Said notice shall include the date of the vacancy and the date on which any nominations must be submitted.

### **3.2 Repealed effective September 10, 2015**

### **3.3 Repealed effective September 10, 2015**

### **3.4 Appointment of the Director**

- (a) Subject to the provisions of Sub-section (b) of this Rule, the Director shall be appointed by the Commission following competitive examination administered in a manner prescribed by the Commission.
- (b) The Commission may appoint a temporary interim acting director, if such becomes necessary, without administering a competitive examination.
- (c) The salary of the Director shall be established by the State Police Commission.

### **3.5 Status of the Director**

(a) The Director shall be employed within the Unclassified Service of the State.

T/S-56	Chapter 3 in its entirety	09/10/2015
T/S-59	Rule 3.1(u)	10/13/2016

## CHAPTER 4

### PERSONS GOVERNED BY THESE RULES

#### 4.1 Classified and Unclassified Positions

- (a) All persons subject to the State Police Service Article are governed by these Rules. The State Police Service is divided into the classified and unclassified service. Persons not included in the unclassified service are in the classified service. The State Police Commission shall determine those positions which shall be in the unclassified service and may provide that any such position shall become classified.
- (b) Subject to the provisions of Sub-sections (c) and (d) of this Rule, the following persons are employed in the classified service: all regularly commissioned full-time law enforcement officers employed by the Department of Public Safety and Corrections, Office of State Police, or its successor, who are graduates of the state police training academy course of instruction and are vested with full state police powers, as provided by law, and persons in training to become such officers and employees of the State of Louisiana.
- (c) Subject to the provisions of Sub-section (d) of this Rule, the following employees shall be in the unclassified service:
  - (1) The Director of the State Police Commission
  - (2) The Superintendent of the Department of Public Safety and Corrections, Office of State Police
  - (3) State Police Commission personnel
  - (4) Members of the State Police Commission
  - (5) Repealed, effective September 10, 2015
  - (6) Repealed, effective September 10, 2015
  - (7) Repealed, effective September 10, 2015

- (8) Repealed, effective September 10, 2015
- (9) Repealed, effective September 10, 2015
- (10) Repealed, effective September 10, 2015
- (11) Repealed, effective September 10, 2015
- (12) Repealed, effective September 10, 2015
- (d)
  - 1. The Director, upon receipt of written justification by the Superintendent of the Office of State Police, may add the following positions to the unclassified service: positions involving duty assignments which are seasonal, temporary, intermittent, part-time or full-time.
  - 2. The Commission, may add positions to the unclassified service and may, revoke any position added to the unclassified service under the provisions of this Sub-section.
  - 3. The Director may not revoke any position added to the unclassified service by the Commission, but may revoke those positions added by him.
  - 4. Deleted, effective September 10, 2015
- (e) Repealed, effective November 15, 1993.

## **CHAPTER 5**

### **CLASSIFICATION PLAN**

#### **5.1 Adoption of a Classification Plan**

- (a) The Director, on a regular basis, shall present to the Commission at public hearing a Classification Plan consisting of all current classification in the system including any new or amended jobs added (in accordance With Rule 5.1(c)). Such plan shall consist of job specifications designated by standard titles designed to encompass all positions and jobs in the classified service.
- (b) An original classification plan or an amended classification plan shall become effective only after approval by the Commission following public hearing.
- (c) The Director may approve amendments to the classification plan on an interim basis as the need for new jobs is identified; and any amendments made more than 15 days prior to the public hearing may be presented to the Commission at public hearing as provided in Rule 5.1(a).

#### **5.2 Allocation of Positions**

- (a) The Director, after consultation with the appointing authorities concerned, shall cause each position to be allocated into its appropriate job and may reallocate positions from job to job.
- (b) In making such allocations, the Director shall provide for uniform application of the classification plan to all positions regardless of appointing authority.
- (c) No person shall be appointed to any position until it has been officially allocated by the State Police Commission.
- (d) Allocation of positions shall be based on those duties being actually certified as true by the appointing authority as stated on the official position description form. Falsification or misrepresentation of duty statements are a violation of State Police

Commission Rules and any such falsification or misrepresentation cannot support allocation into any job.

### **5.3 Review of Classifications**

- (a) The Director shall provide for the systematic review of the classification of each position in the classified service.
- (b) An employee affected by the allocation or reallocation of a position to a job shall be afforded a reasonable opportunity to have his case reviewed by the Director or by a representative whom he designates. The Director's decision shall be final in these matters unless there is an allegation that his ruling has been discriminatory.

### **5.4 Use of Job Titles**

- (a) The title of each job shall be the official title of every position allocated to the job and shall be used to the exclusion of all others on all payrolls, budget estimates, and official records and reports pertaining to budget estimates, and official records and reports pertaining to the position, provided.
  - 1. That any abbreviation or code symbol approved by the Director may be used to designate a position of a job.
  - 2. That any other working title satisfactory to the appointing authority may be used in connection with matters not having to do with the personnel transactions prescribed by the Director.
- (b) No employee shall be appointed, employed, or paid under any title other than that of the job to which the position occupied or to be occupied by him is assigned.

### **5.5 Force an Effect of Job Specifications**

The classification plan consists of the specifications for all jobs officially created and shall have the following force and effect:

- (a) The definitions are descriptive and not restrictive. They are intended to indicate the kinds of positions that should be allocated to the various jobs as determined by their duties and responsibilities. The use of a particular expression or illustration as to duties shall not be held to exclude others not mentioned that are of similar kind or quality.
- (b) The allocation of a position to a job and the assignment of a job to a pay grade is based on the analysis of duties and responsibilities reported on the official position questionnaire by the appointing authority.
- (c) Repealed, effective September 7, 1982.
- (d) Repealed, effective June 29, 1987.

#### **5.6 Status of Incumbent When Position is Reallocated**

- (a) When a position is allocated into a different job at the same, higher, or lower grade level, the incumbent shall be entitled to serve without change in status provided there are no legal barriers for such service, such as license, certification, or accreditation which exceed the credential possessed by the incumbent and such legal requirements are included within the established minimum qualification requirements.
- (b) When the incumbent does not possess the minimum qualification requirements or where any of the legitimate barriers do exist, the position shall be declared a new position and the incumbent shall be assigned duties and responsibilities associated with a job for which he does qualify.

#### **5.7 Job Evaluation**

The Director shall evaluate and/or reevaluate each job in the classification plan to establish its relative value in the classified service. Jobs will be assigned to a pay grade based on the provisions contained in Chapter 6 of these Rules as well as consideration of each job's evaluation.



## **Chapter 6**

### **UNIFORM PAY AND CLASSIFICATION PLAN**

#### **6.1 Philosophy**

The pay rates for the classified state police service will be established in accordance with a system that generally considers such factors as availability of applicants, the quality of the applicant pool, turnover rates, federal law, market competition, pay practices of market competitors, the evaluation system ranking, employee performance and level of funding available.

#### **6.2 Preparation of Pay Plan**

(a) The Director, after consultation with the appointing authority and the state fiscal officer and after conducting such research as the Director deems appropriate, shall cause to be prepared for submission to the Commission, a uniform pay and classification plan, or amendments thereto, for the classified service. The Director may propose different rates of pay in different localities and areas of the state depending upon availability of applicants and other factors impacting pay compensation.

(b) The Director shall make a recommendation to the Commission concerning a pay structure adjustment at least annually.

#### **6.3 Adoption of Pay Plan**

(a) Any uniform pay and classification plan, or amendments thereto, proposed by the Director shall be submitted to the Commission for its consideration at a public hearing called for this purpose.

(b) The State Police Commission, upon adoption of a uniform pay and classification plan, shall specify the manner in which the uniform pay and classification plan is to be implemented.

(c) Repealed, Effective November 12, 2015

(d) A uniform pay and classification plan or amendment thereto, when adopted by the Commission after public hearing shall become effective *only* after approval in its entirety by the Governor.

#### **6.4 Rates of Pay**

The pay range for each grade shall consist of a range minimum and maximum.

(1)The pay range for each grade shall consist of designated salary rates representing the following career achievements:

(a) \*representing the entrance salary or hire rate,

(b) \*\*representing a promotional step at the attainment of Police Officer Standards and Training (POST)certification and graduation from the State Police Training Academy,

(c) \*\*\*representing a promotional step at the successful completion of the Field Training Officer (FTO) Program,

(d) Twenty-two consecutive longevity step rate increases to an employee who is in active status.

(2)Subject to the provisions of Rules 6.11, 6.15, and 6.16 each employee shall be paid at the rate representing his/her service tenure as applicable for the pay level assigned to the grade for which his/her position is allocated, in accordance with the provisions of Rule 6.16.

#### **6.5 Hiring Rate**

Pay upon employment shall be at the minimum of the range established for the grade of the job title to which the position is allocated except:

(a) Repealed, Effective November 12, 2015

(b) Special Entrance or Retention Rates

When economic or employment conditions cause substantial recruitment or retention difficulties, the Director may authorize the appointment of qualified applicants at a special entrance rate or may authorize the use of a special retention rate within the range, for the position in a limited geographical area or for positions in a job title where employment conditions are unusual.

1. The department to which the special rate is made applicable having employees in the same position in the affected area or locale where the special rate will be used, shall increase the pay rate of all such employees to the special rate. All new hires shall be paid at the special entrance or special retention rate. An appointing authority may adjust the salaries of employees working in the positions to which the special entrance rate applied to any salary up to, but not to exceed, the amount of the percent difference between the special rate and the current hiring rate.

2. When special entrance rates or special retention rates are adjusted downward, the individual pay rates of employees occupying positions affected by the authorized rates shall not be changed.

3. Special entrance rates and special retention rates must be approved by the Commission at its next scheduled meeting after action was taken by the Director.

(c) Reentering the Classified Service

The pay of an employee reentering the classified State Police Service, other than one being restored to duty following military service, shall be set to represent his/her service tenure as applicable for the pay level assigned to the grade which his/her position is allocated and does not exceed the salary rate designated for the total number of years of State Police Service by the employee.

(d) Restoration of Duty Upon Return from Military Service

1. Any employee, who subsequent to June 24, 1948, has left or leaves a classified position within State Police Service in which he was or is serving with probationary or permanent status, for active duty in the armed forces of the United States for not more than six years of voluntary service or an indefinite period of involuntary service and who upon separation from the armed forces by honorable discharge or under honorable conditions makes application for reemployment within ninety days thereof or within ninety days after he or she is released from hospitalization continuing after discharge for a period of not more than one year shall be restored to such position or to a position of like seniority, status, and pay.

2. When an employee returns from military service and is restored to duty in his former, equivalent or lower position, the employee's pay shall be set at the rate representing his/her service tenure as applicable for the pay level assigned to the grade for which his/her position is allocated prior to leaving the classified State Police Service. If the position or equivalent position had been upgraded or any pay adjustments granted, the employee shall be granted a pay rate reflecting the impact of these adjustments, as though he had been in that position at the time of the adjustments. If the employee's rate of pay does not match that of the established salary rate for the total years of State Police Service in the grade assigned to the position the employee will occupy, the employee's salary rate shall be red circled in accordance with provisions of Rule 6.15.

(e) Repealed, Effective November 12, 2015

#### **6.5.1 Pay upon Appointment from a Department Preferred Re-employment List**

The pay of an employee appointed from a department preferred re-employment list shall be set at the rate representing his/her service tenure as applicable for the pay level assigned to the grade for which his/her position is allocated.

#### **6.6 Market Rate Job Title Assignment**

When the pay range for the grade to which a job title is currently assigned either is not sufficient to compete with prevailing market conditions, or is found to exceed prevailing market rates, the Commission may authorize the assignment of the job title to a grade with a more appropriate job or pay range. The individual pay rate of employees occupying positions which are affected shall be set in accordance with Rule 6.8.

#### **6.7 Rate of Pay upon Promotion**

(a) When an employee is promoted to a position in a higher grade, their pay shall be established for the corresponding salary rate representing their service tenure as applicable for the pay level assigned to the higher grade, along with all performance adjustments accrued prior to promotion.

(b) When an employee has been detailed with pay to a higher grade and is promoted to that same grade directly from the detail, their pay eligibility on promotion shall not be less than they received on detail.

#### **6.8 Pay upon Grade Assignment**

Subject to review by the Commission, when the Director assigns a job title to a different grade or a position from one job title to another:

(a) If the job title to which the position is allocated is in a higher grade or if the job title is assigned to a higher grade, the affected employee's pay shall be set in accordance with Rule 6.7.

(b) If the job title to which the position is allocated is in a grade lower than the current job title or the job title is assigned to a lower grade, the affected employee's pay will not change, but shall be subject to provisions of Rule 6.15.

(c) If the job title to which the position is allocated is in the same grade or if the job title is assigned to the same grade level, the employee's pay shall not change.

#### **6.9 Pay upon Reassignment**

When an employee is reassigned to another position, the rate of pay shall be set representing his/her service tenure as applicable for the pay level assigned to the grade for which his/her position is allocated, along with all performance adjustments accrued.

#### **6.10 Rate of Pay upon Demotion**

(a) When an employee is demoted for disciplinary reasons, the appointing authority may set the employee's pay at any salary rate within the lower pay grade which does not exceed their current rate of pay and the salary rate designated for the total number of years of State Police Service by the employee.

(b) When an employee takes a voluntary demotion, their rate of pay shall be set representing his/her service tenure as applicable for the pay level assigned to the grade for which his/her position is allocated, along with all performance adjustments accrued.

(c) When an employee is involuntarily demoted for nondisciplinary reasons, or is demoted in Lieu of Layoff required solely by budgetary reasons, their rate of pay shall be set representing his/her service tenure as applicable for the pay level assigned to the grade for which his/her position is allocated, along with all performance adjustments accrued.

#### **6.11 Rate of Pay on Detail to Special Duty**

When an employee is detailed to special duty, their pay shall not be reduced; if the position is allocated to a job title which is assigned to a higher grade, his pay shall be increased to the rate they could receive upon promotion to such position, provided:

(a) Any such temporary increase granted the employee shall not affect their eligibility for pay increases which they would have acquired in his regular position had they not been detailed.

(b) At the conclusion of the detail, the employee's pay shall revert to his authorized rate of pay in their regular position.

#### **6.12 Repealed, Effective November 12, 2015**

##### **6.12.1 Compensation for Holidays**

Employee shall be eligible for compensation on holidays observed except when the employee is on leave without pay immediately preceding and following the holiday period;

(a), (b), (c), (d) Repealed, Effective November 12, 2015

#### **6.13 Certification and Payment**

(a) No employee shall receive any compensation except as authorized by or pursuant to the provisions of Article X, the State Police Commission Rules, the uniform pay and classification plan and the policies and procedures issued by the Director.

(b) If payments to an employee are found to have been made in violation of the provision of Article X, the State Police

Commission Rules, the uniform pay and classification plan, or the policies and procedures issued by the Director, the Director may take any corrective action deemed appropriate or may direct the appointing authority to take such corrective action. Corrective actions may include, but are not limited to, the rescission of any actions and associated compensation, or restitution to the employee.

#### **6.14 Longevity Step Rate Increases and Performance Adjustments**

(a) An employee who is in active status, and who has achieved the rank of State Police Trooper or higher, will receive a longevity step rate increase in accordance with the approved pay plan. The employee is also eligible for and may be granted a performance adjustment of 1% above the employee's rate within the approved pay plan, provided that the appointing authority has determined his performance merits a performance adjustment and funding for the performance adjustment is available. A longevity step rate increase shall be granted to employees each year.

(b) When applying the longevity step rate increase, the employee's current pay increases to the rate of pay established for the higher salary rate immediately following the employee's current rate in accordance with the approved pay plan within the pay range for which the employee's job title is assigned.

(c) Upon a new employee's successful completion of the State Police Training Academy, they become eligible for and may be granted a promotional increase in accordance with the approved pay plan provided that the appointing authority has determined their performance merits such an award.

(d) Repealed, Effective January 1, 2015

(e) At the end of the new employee's Field Training Officer(FTO) program, the employee becomes eligible for and may be granted an additional promotional increase in accordance with the approved pay plan provided that the appointing authority has determined that their performance merits such an award.

(f) The appointing authority may, at any time within three (3) years from the date an employee gained eligibility, grant an employee all or any one of the performance adjustments for

which they have attained eligibility provided the employee has not received an unsatisfactory service rating for the applicable year(s).

(g) All increases herein authorized are subject to the requirement that no employee's pay shall exceed the highest established salary rate for the range to which the position is assigned.

(h) Repealed, Effective January 1, 2015

(i) Repealed, Effective November 12, 2015

(j) Repealed, Effective November 12, 2015

(k) An employee whose official overall evaluation is "Needs Improvement/Unsuccessful" shall not be eligible for a performance adjustment under the provisions of this rule.

(l) A former employee who is reemployed following certification from a department preferred reemployment list within a year of the layoff date shall retain the anniversary dates, longevity step rate increases and performance adjustment eligibilities earned under this rule for which they have been granted increases. If reemployed from a preferred list after one year, they shall be considered a new employee with regard to the establishment of their anniversary date, longevity step rate increases and performance adjustment eligibility.

(m) An employee on detail to a position in a higher grade will be granted longevity pay increases in the higher grade calculated on their individual pay rate in the higher grade. An employee on detail to a position in a higher grade is also eligible for a performance adjustment.

#### **6.15 Red Circle Rates**

(a) In accordance with the uniform pay and classification plan, rates that fall precisely on an established salary rate become the employee(s) authorized individual pay rate.

(b) Individual pay rates that fall between established salary rates become temporary red circle rates and remain in effect until the employee becomes eligible for and receives an increase which places their salary on a established salary



rate. Individuals whose salary rates are temporarily red circled shall be eligible for any other pay adjustments provided for in the rules.

(c) Individual pay rates that fall above the highest salary rate established for the grade become red circle rates and remain in effect until the range catches up with the rate. However, eligibility for a red circle rate above the highest salary rate grade is lost upon separation from the State Police Service, demotion, or promotion. Individuals whose salary rates are red circled above the highest salary rate shall not be eligible for any other pay adjustments provided for in the rules.

(d) Red circle rates are assigned under the conditions outlined below:

1. When the job title to which a position is allocated is assigned to a lower grade.
2. When a position is reallocated to a job title assigned to a lower pay grade.
3. When an adjustment to the pay structure lowers the range for the grade to which a job title is assigned.
4. When positions are declared to be in the classified service and the employee's current rate of pay falls above the highest salary rate of the range for the grade of the job title into which the position(s) are allocated.
5. When an employee has returned from military duty and their pay is set for an amount other than an established salary rate.
6. When an employee's pay does not match an established salary rate due to an involuntary demotion for nondisciplinary reasons under the provisions of Rule 6.10[c].

#### **6.16 Special Pay Rates**

Under conditions described below, the Commission may authorize special pay considerations, beyond those already prescribed in these rules.

(a) Shift Differential

In order to remain competitive with the pay practices of market competitors, additional pay may be authorized for shift work or other non-standard work hours.

(b) Extraordinary Duty

Additional pay may be authorized for an employee who performs extraordinary duty that is not an integral part of his regularly assigned duties.

(c) Individual Pay Adjustment

When an appointing authority requests and can present adequate justification with documentation before the Commission in public hearing, the Commission may grant special adjustment in pay for individual employees.

(d) Premium Pay

In order to provide a special pay rate to apply to situations which other rules do not cover, the State Police Commission may authorize premium pay for positions where employment conditions are unusual, to remain competitive with the pay practices of market competitors.

(e) The special pay rates authorized by the Rule shall not be effective until approval by the Commission at a public Hearing; with the limited exception that the State Police Commission Director may grant interim approval of individual pay adjustments for an employee until the next Commission meeting where a pay adjustment request can be placed on the agenda. At that time, the appointing authority shall provide justification for the special pay adjustment. In the event the request is denied by the Commission, the employee shall not suffer any loss of pay from the date of the interim approval until the date the Commission denies the request.

## **6.17 Pay on Entering the Classified Service**

An employee who enters the classified state police service shall have their pay established as follows:

(a) The pay range for each grade shall consist of a range minimum and maximum.

(b) Repealed, Effective November 12, 2015

(c) Twenty-two consecutive longevity step rate increases shall be granted to employees yearly, in accordance with Rule 6.14(a).

(d) In no case shall the rate of pay be higher than the range maximum rate for the grade level.

#### **6.18 Definition of Overtime Hour**

An overtime hour is an hour worked by an employee at the direction of the appointing authority:

(a) On the employee's official holiday; or

(b) In excess of the regular duty hours in a regularly scheduled workday, as designated under Rule 11.1; or

(c) In excess of the regular duty hours in a regularly scheduled workweek as designated under 11.1, or 11.2.

(d) Repealed, Effective November 12, 2015

(e) In excess of eighty hours worked during any regularly recurring and continuous bi-weekly calendar work period where excessive hours are systematically scheduled. Any holiday observed during this work period is counted as a day worked.

(f) Repealed, Effective November 12, 2015

(g) A day on which an assigned duty station, is closed by direction of the appointing authority because of natural or manmade emergencies.

#### **6.19 Methods of Compensation for Overtime Hours Worked**

Compensation for overtime, if applicable, shall be one of the following:

(a) Cash payment at the time and one-half rate. Premium pay, shift differential, and non-cash compensation such as the

reasonable cost or fair value of goods and/or facilities which are regarded as part of the employee's wages under the Fair Labor Standards Act may be included in calculating the rate of pay at time and one-half.

(b) Cash payment at the regular rate. Premium pay, shift differential, and non-cash compensation such as the reasonable cost or fair value of goods and/or facilities which are regarded as part of wages under the Fair Labor Standards Act shall not be included in calculating the rate of pay at the regular rate.

(c) Compensatory leave earned hour for hour.

(d) Compensatory leave earned at the time and one-half rate.

#### **6.20 Options for Full-Time Employees for Overtime Hours Actually Worked in Excess of Eighty Hours per Work Period**

As provided by Rule 6.24, the appointing authority shall select and use one of the applicable options listed below for those overtime hours actually worked in excess of 80 hours per work period.

<u>FLSA STATUS</u>	<u>OPTIONS</u>
(a) Nonexempt	1. Cash Payment at time and one-half rate; or 2. Compensatory leave earned at time and one-half rate.
(b) Exempt	1. Cash payment at regular rate; or 2. Compensatory leave earned hour for hour.

**6.21 Overtime Options for Full-Time Employees for Overtime Hours Not Actually Worked in Excess of Eighty Hours per Work Period Due to Holidays Observed or Leave Taken**

The appointing authority shall select and use one of the applicable options listed below for those overtime hours not actually worked in excess of eighty hours per work period due to holidays observed or leave taken.

<u>FLSA STATUS</u>	<u>OPTIONS</u>
(a) Nonexempt	1. Cash payment at regular rate; or  2. Compensatory Leave earned hour for hour.
(b) Exempt	1. Cash payment at regular rate; or  2. Compensatory Leave earned hour for hour.

**6.22 Payment for Hours Worked During an Office Closure**

Both exempt and non-exempt employees shall be compensated via the payment of wage calculated at the time and one-half rate, along with office closure pay, for any hours worked at designated locations due to and directly related to an emergency situation which caused an official office closure.

(a), (b), (c), (d) Repealed, Effective November 12, 2015

### **6.23 Overtime Options for Work on Holidays**

(a) An appointing authority shall select and use one of the applicable options for overtime work not in excess of eighty hours per work period performed on holidays.

<u>FLSA STATUS</u>	<u>OPTIONS</u>
1. Nonexempt	a. Cash payment at time and one-half rate; or  b. Cash payment at regular rate; or  c. Compensatory time earned hour for hour.
2. Exempt	a. Cash payment at regular rate; or  b. Compensatory time earned hour for hour.

(b) Work performed in excess of eighty hours per work period shall receive overtime compensation in accordance with Rule 6.20, whether or not work is performed on a holiday.

### **6.24 Special Overtime Pay Provisions (Fair Labor Standards Act, Section 7)**

An appointing authority may use any of the special overtime pay provisions permitted by the Fair Labor Standards Act; however, if an employee actually works in excess of full-time hours during the pay period, but less than the number of hours required to be treated as overtime under FLSA, Rule 6.20 only shall apply for such overtime hours.

### **6.25 Caps on Accumulation of Compensatory Leave**

(a) Employees who accrue Fair Labor Standards Act compensatory leave at the time and one-half rate shall accumulate no more of such compensatory leave than allowed under the Fair Labor Standards Act.

(b) Once the maximum balance of Fair Labor Standards Act compensatory leave earned at the time and one-half rate is reached, any additional overtime work in excess of 80 hours per 2 week pay period must be paid to an eligible employee in cash at the time and one-half rate.

(c) Compensatory leave earned hour for hour (non-Fair Labor Standards Act) may be accrued up to a maximum balance of 1000 hours at the end of any fiscal year. Transfer, cancellation and crediting of compensatory leave is provided for under the provisions of Rule 11.29.

#### **6.26 State Police Commission Review of Nonexempt Positions**

(a) It is the responsibility of the appointing authority on an ongoing basis to determine whether an employee occupying a position should be considered nonexempt under the Fair Labor Standards Act. Such employees must be paid in accordance with the Fair Labor Standards Act, and prior approval from the Director is unnecessary. Following such determination, the appointing authority shall provide the Director with a listing of such job titles and number of positions.

(b) Such listing will be reviewed by the Director in order to serve as a check to insure an understanding of the FSLA exemptions and to compare with information provided for classification purposes.

#### **6.27 Exceptions to the Overtime Rules**

Exceptions to the Rules on overtime compensation are as follows:

(a) For positions which are exempt under the Fair Labor Standards Act the Commission may grant authority to use any of the options for overtime compensation when:

1. An appointing authority petitions the Commission for this authority. The Commission, may, with such restrictions as it deems appropriate, permit the use of time and one-half compensation to employees who occupy exempt positions.

2. The Director petitions the Commission for authority to utilize time and one-half compensation to specific positions. Such authorizations, when approved, shall be published in a General Circular.

(b), (c) Repealed, Effective November 12, 2015

## **6.28 On-Call Pay**

(a) The Director may authorize payment of on-call pay through policy directives which establish guidelines for on-call pay and which establish maximum authorized rates. The Commission may authorize on-call pay at a higher rate than established by the Director.

(b) Such on-call pay is compensation for hours in excess of the employee's regularly scheduled hours of duty, when they are available for call back to their duty station, work-ready, within a specified period of time, at the direction of the appointing authority. On-call pay is in addition to the employee's regular pay and is not to be included in computation of overtime payments or terminal leave payments allowed under provisions of other Sections of the Rules. On-call pay shall not be granted to an employee for the employee regularly scheduled hours of duty. Further, when an employee is called back they shall be considered on duty status and eligible for applicable overtime compensation.

## **6.29 Other Compensation**

An appointing authority desiring to provide compensation not specifically covered either by Chapter 6 of these Rules, or by the classification and pay plan, it shall obtain approval from the Commission of a plan for providing such compensation, and shall obtain certification in accordance with Rule 6.13, prior to providing such compensation. The alteration of any such plan shall not be made without the prior approval of the Commission.

T/S-53	Rule 6.14(j)	09/12/2013
T/S-54	Rule 6.3(d), 6.4, 6.14	10/09/2014
T/S-57	Rule 6 in its entirety	11/12/2015
T/S-58	Rule 6 in its entirety	06/01/2016
T/S-60	Per 6.3(d); Rule 6 in its entirety	10/12/2016



**CHAPTER 7**  
**EXAMINATION AND ELIGIBLE LISTS**

**7.1 Examinations**

- (a) The Director shall conduct competitive examinations at such times and places as deemed necessary or desirable to the needs of the State Police classified service.
- (b) Unless specifically provided otherwise in examination announcements, applications for admission to examinations shall be accepted on a continuing basis.

**7.2 Public Notice of Open Competitive Examinations**

- (a) The Director shall give reasonable public notice of each open competitive examination in advance of the deadline date for filing applications.
- (b) When an examination for State Police Cadet has been announced, the Director shall conduct active recruitment for candidates through all appropriate and reasonable channels. All persons recruited shall be given a reasonable time, established by the Director, to test for the position.
- (c) Notices of open competitive examinations shall be posted on a bulletin board maintained at or near the principal office of the State Police Commission, and at all Troop Headquarters, Regions, and at the Office of Human Resource Management and all other appropriate locations at State Police Headquarters. The Director may also advertise tests in such publications and locations as are deemed appropriate and use any other means considered necessary or desirable to bring the notice of the examinations to the attention of the general public and to those qualified for admission.
- (d) Each official notice shall state the place and manner of making application, and any other information which the Director considers pertinent and appropriate.

**7.3 Amended and re-enacted by the State Civil Service Commission effective March 15, 1966 as part of Rule 7.9.**

#### **7.4 Admission to Examinations**

- (a) The Director shall, subject to these Rules and the class specifications, determine the qualifications for admission to any examination.
- (b) A person whose employment is prohibited by any law or Rule shall not be admitted to any examination, except that where, the Director finds there exists reason to believe that the prohibition will cease to exist within a reasonable time, an applicant may be admitted to the examination and certified for a position, but such person shall not be appointed as long as his employment is prohibited.
- (c) Whenever age limits are specified in the qualification requirements, such age limits shall not apply to any applicant who has had at least one year of experience in the class of position for which application is made for examination.
- (d) Applicants who take an examination shall not take the same examination again until a period of at least thirty (30) days has elapsed from the date of the last examination, and no applicant shall be admitted to the same examination more than three times in any twelve-month period. The applicant's official grade shall be the one obtained on his most recent examination.
- (e) Repealed by the State Civil Service Commission effective February 10, 1976
- (f) An applicant can take only the promotional examination for the rank immediately above the applicant's permanent rank.

#### **7.5 Rejection of Application**

- (a) Under any of the below circumstances, the Director shall reject the application of any person for admission to examination, refuse to examine any applicant or refuse to reinstate a prior grade or pass status:
  - 1. Whose employment in the State Police Service would be prohibited by law or these Rules;

2. Who lacks the minimum qualifications (and any other qualifications) prescribed as requirements for admission to examination for the class for which he/she has applied or has been examined.
  3. Who has been adjudged guilty by a court of competent jurisdiction of any felony; or who has been convicted of any misdemeanor which involves moral turpitude;
  4. Who has been dismissed from public employment (as defined by Rule 1.30.1) for cause or has been permitted to resign in lieu thereof;
  5. Who has made a false statement of any material fact or has practiced or attempted to practice deception or fraud in his/her application for examination for public employment (as defined by Rule 1.30.1), or otherwise in securing or attempting to secure public employment and/or eligibility for appointment for himself/herself or anyone else; or
  6. Whose application was filed after the closing date fixed for receipt of the application. In such case, the application shall be automatically accepted for the next available examination.
- (b) Repealed, effective January 28, 1992, and incorporated as 7.5(a) 9.
- (c) A person whose application has been rejected under this Rule shall receive prompt written notification from the Director. Specific reason(s) for such action will be included in the notification.

## **7.6 Postponement and Cancellation of Tests**

In the event that an insufficient number of qualified candidates apply for a test, the Director may extend the last filing date and postpone the date of test, or cancel the administering of the test and shall, in each such case, give suitable notice thereof.

## **7.7 Content of Tests**

- (a) Tests for promotional positions shall be practical and job-related in their nature and shall test those areas which will fairly measure the relative capacity and fitness of the candidates to discharge the duties of the positions to which they seek promotion. Promotional examinations may consist of a rating of training, education, and experience, a performance test, an objective written test, an oral examination, an assessment center, or any combination thereof.
- (b) Examinations for entrance into the State Police Service shall be open, competitive, practical in nature, and be constructed to reveal the capacity of the applicants for the class of State Police Cadet. Examinations may consist of a rating of training, education and experience, a written objective test, a performance test, an oral examination, a questionnaire, a psychological evaluation, or any combination thereof, with due reference also to ability to develop in such ways as to merit advancement to positions of higher classes.

## **7.8 Repealed, effective January 28, 1992, and incorporated as part of Rule 7.7**

## **7.9 Promotional Examinations**

- (a) The Director may conduct a competitive promotional examination for any vacant or prospectively vacant position, provided
  - 1. The Director shall issue an appropriate announcement in advance of such examination and it shall be the duty of the Appointing Authority to make every effort to see that employees are informed of the announcement;
  - 2.
    - a. Admission to such examination shall be restricted to permanent employees who meet the qualifications stated in the class specifications for the position for which the promotional examination is announced. An employee currently

rated unacceptable (i.e., "needs improvement" or "unsatisfactory") shall not be admitted to any competitive test.

- b. Repealed by the State Civil Service Commission effective March 15, 1973
  - c. Whenever minimum qualification requirements are changed and incumbents of positions in affected classes do not meet the new requirements, such incumbents will be allowed to remain in the class of position occupied, unless a specific license or certification is required by law, and to continue gaining qualifying experience for the higher levels that are in the normal career progression for that class.
  - d. Repealed, effective January 28, 1992, and partially incorporated in 7.9(a)2c.
  - 3. Repealed, effective January 28, 1992, and incorporated in Rule 7.7(a).
  - 4. The eligible list established from such examination shall contain the names of all candidates who pass the examination, ranked according to their final ratings.
  - 5. In assigning a rating based on training and experience, credit shall not be allowed for periods of leave of thirty days or more absence without pay granted under the provisions of Rule 11.27(a) and (b), unless the work performed during the period of absence is creditable under the examination specifications.
- (b) Non-competitive promotions may be made to non-competitive classes only in accordance with the provisions of Rule 7.20.
  - (c) The Director may indicate the principal or normal line of promotion from and to each class of position.
  - (d) Upon receipt by the Director of a request to fill a promotional vacancy, the Director shall admit to

examination and consider for certification all qualified applicants whose applications are then on file with the Director for the vacancy being filled; provided that the Director may restrict the number of times that an applicant may be admitted to the same examination within a twelve month period.

(e) Repealed, effective January 28, 1992

**7.10 Amended and reenacted by the State Civil Service Commission effective March 15, 1966 as a part of Rule 7.9**

**7.11 Preferential Eligibility Credits**

(a) Repealed by the State Civil Service Commission effective January 1, 1975.

(b) Subject to the provisions of Subsection (e) and (g) of this Rule, in original appointments, the appointing authority shall give some consideration and preference to:

1. Persons honorably discharged, or discharged under honorable conditions, from the Armed Forces of the United States who served:

(a) In the wartime period July 1, 1958 through May 7, 1975; except the period July 1, 1958 through August 4, 1964 shall apply only to those who served within the area known as the Vietnam Theater; or

(b) Prior 7.11(b)2. repealed, effective January 28, 1992.

(c) Prior 7.11(b)3. repealed, effective January 28, 1992.

(d) Prior 7.11(b)4. repealed, effective January 28, 1992.

(e) Prior 7.11(b)5. repealed, effective January 28, 1992.

(f) In a peacetime campaign or expedition for which campaign badges are authorized.

2. Each honorably discharged veteran who served either in peace or in war and who has one or more disabilities recognized as service-connected by the Veterans Administration;
  3. The spouse of each veteran whose physical condition precludes his or her appointment to a position as a State Police Cadet;
  4. The unremarried widow of each deceased veteran who served in a war period as defined in Subsection (b) 1. (a) of this Rule, or in a peacetime campaign or expedition;
  5. The unremarried widowed parent of any person who dies in active wartime or peacetime service or who suffered total and permanent disability in active wartime or peacetime service;
  6. The divorced or separated parents of any person who died in wartime or peacetime service or who became totally and permanently disabled in wartime or peacetime service.
- (c) Prior 7.11(d) 1. and 2. and (e) repealed, by the State Police Commission, effective July 21, 1997.
- (d) Prior 7.11(f) repealed by the State Civil Service Commission, effective January 7, 1975.
- (e) Except for Subsection (b) 2. of this Rule, service that is for the purpose of training only shall not be considered as qualifying service.

#### **7.12 Proof of Eligibility for Military Preference**

Proof of eligibility for military preference shall be furnished the Director by the person claiming the preference on the form prescribed by the Director for this purpose, together with such evidence as may be called for on the form.

### **7.13 Results of Tests**

The rating of each test shall be completed as soon as possible after the test is given, and the Director shall have prepared an eligible list for the class from the results with the names of those persons who have met the eligibility placed in grade order from the highest to the lowest. Persons competing in any test shall be given written notice of their final earned rating, or their failure to attain a place on the list.

### **7.14 Repealed, effective January 28, 1992**

### **7.15 Repealed by the State Civil Service Commission effective April 20, 1981**

### **7.16 Regrading of Tests**

Upon proper application to the Director, a competitor in an examination shall be entitled to have the test paper and rating reviewed, unless such is prohibited by agreement between the Director and a professional testing service. Any rating errors disclosed shall be corrected but such changes shall not per se invalidate any certification or appointment made from an eligible list.

### **7.17 Establishment of Eligible Lists**

- (a) The Director shall, subject to these Rules, establish eligible lists from the results of State Police Merit System examinations. Such lists shall contain the names of all candidates who pass the related examinations.
- (b) Eligibles shall be ranked on such lists in the relative order of the rating attained, including preference points, if any.

### **7.18 Amended and reenacted by the State Civil Service Commission effective December 17, 1957 as parts of Rules 7.1 and 7.17**

### **7.19 Amended and reenacted by the State Civil Service Commission effective March 15, 1966 as part of Rule 7.9**

### **7.20 Noncompetitive Classes**



- (a) Repealed, effective January 28, 1992.
- (b) Repealed by the State Civil Service Commission effective January 1, 1975.
- (c) Repealed, effective January 28, 1992.
- (d) Repealed, effective January 28, 1992.
- (e) When testing for a class is impractical because of situations that require considerable education in a formal body of knowledge and professional testing prior to legal licensing and practice of a profession, the Director may, with approval of the Commission, dispense with competitive examining procedures for those classes.

**7.21 Repealed by the State Civil Service Commission effective January 14, 1983, and incorporated into Chapter 17**

**7.22 Consolidation of Lists**

When an eligible list is established for a class of position for which an eligible list is already in existence, the existing list may be canceled or merged with the new list, at the discretion of the Director. If the name of any individual appears on both the old and the new list, and the lists are merged, the candidate's standing on the new list shall be determined by the score on the more recent examination.

**7.23 Amendment of Lists**

Any eligible list may be amended by the addition of names of other successful applicants who are admitted to subsequent examinations, and their scores shall be merged in rank order with the scores of those on the original list.

**7.24 Removal of Name from Eligible List**

- (a) The Director may remove from any list the name of any person who is not qualified, is not available or is not suitable for appointment to the position for which the list was established.

- (b) The Director may remove, at the request of the Appointing Authority, the names of persons who have been considered three times for appointment to State Police Cadet and who have not been offered employment.
- (c) At the expiration of one year from entry on any eligible list, except preferred re-employment lists, an applicant's name may be removed from the list for State Police Cadet only. Such applicant may prevent the removal of his/her name by reestablishing his/her eligibility in accordance with the provisions of these Rules and the regulations on admission to examination.
- (d) The Director may remove the name of any person who is temporarily not suitable for appointment to the position for which the list was established.

#### **7.25 Restoration to Eligible Lists After Removal**

- (a) The Director may restore the name of a person removed from an eligible list upon receipt of written application for restoration and a showing that the causes for removal from the eligible list no longer exist or that an error was made in making the removal from the list.
- (b) The Director may restore the name of a former employee who has acquired permanent or probationary status to the register of eligibles from which he/she was appointed if that employee makes application for such restoration within one year from the last date the employee worked in the position, provided the register is still in use.

#### **7.26 Duration of Eligible Lists**

- (a) Each eligible list shall remain in effect until canceled.
- (b) The Director may cancel an eligible list, except a department preferred reemployment list, at such time that the list becomes unsatisfactory or undesirable because of the high percentage of unavailable eligibles on the list, changes in qualification standards, development of new examining procedures, or

for such other reasons as may be in the interest of  
good personnel administration.

**7.27 Repealed, effective January 28, 1992, and incorporated in  
Rule 7.26 (b)**

**7.28 Repealed and re-enacted by the State Civil Service  
Commission effective January 1, 1963 as Rule 14.1.1(d)**

T/S- 42 - Rule 7.4(f)

07/16/2009

## **CHAPTER 8**

### **CERTIFICATION AND APPOINTMENT**

#### **8.1 Methods of Filling Vacancies**

Vacancies in the State Police Service may be filled by original appointment or by promotion, reassignment, demotion, transfer, reinstatement following an appeal, restoration to duty following military service, or noncompetitive reemployment.

- 8.2 **When proposing to fill a vacancy** by original appointment, the appointing authority shall request the Director to certify the names of persons eligible for appointment, furnishing such information about the vacancy as may be necessary for the Director to decide those persons eligible for appointment.

#### **8.3 Anticipation of Need**

As far as practicable, each vacancy shall be anticipated sufficiently in advance to permit the Director to issue an announcement, if necessary, and to establish a list of eligibles.

#### **8.4 Certification of Eligibles**

- (a) The Director, in issuing certificates, shall certify to the appointing authority the names of the highest ranking eligibles from the appropriate list for the class of the vacant position.
- (b) The Director may establish a range of certifiable scores for any job class, and may permit competitive employment of applicants who have attained scores within that range.

#### **8.5 Selective Certification**

- (a) When requested and adequately justified by the appointing authority, the Director may selectively certify from an eligible list the names of eligibles who possess particular qualification.
- (b) In specific instances, and pursuant to and in

conformity with an order of the State Police Commission, a court, or other commission, or agency of competent jurisdiction, the Director may make, or permit the appointing authority to make, selective certification.

#### **8.6 Determination of Availability for Appointment**

- (a) The appointing authority or its agent shall determine the availability of the eligibles certified for appointment and shall submit to the Director written evidence of unavailability or failure to reply, unless a selection is made from one of the eligibles within the five highest final grade groups, or the certifiable band of scores, whichever is applicable.
- (b) If a certified eligible indicates unavailability for appointment, or fails to reply to an availability inquiry within ten (10) calendar days after mailing of notification, the appointing authority may consider that individual as having been removed from the certificate.

#### **8.7 Appointment of Eligibles from Certificates**

- (a) Except as provided in subsection (b) hereof, appointment from certificates must be made from one of the eligibles within the five highest final grade groups, or certifiable band of scores, except in making appointments from a department preferred re-employment list, in which case the highest ranking eligible shall be appointed. All candidates having the same final grade will be considered as "a grade group." When processing a certificate of eligibles, if five or more candidates whose names are among the five highest final grade groups express availability for a vacancy, appointment will be restricted to such candidates. If one or more of the five top grade groups is eliminated in accord with the Rules, the appointing authority may proceed to the next final grade group, or groups, until there are at least five grade groups from which to choose. Certificates showing action taken thereon must be returned by the

expiration date specified on the certificate, unless the Director extends the time. In each case of appointment, such appointment shall become effective on the day the appointee begins duty.

- (b) If a certificate contains the name of an eligible who has previously been subjected to removal or dismissal by the appointing authority, or who has resigned to escape possible disciplinary action, they may be removed from consideration, and if there are fewer than five final grade groups remaining, the appointing authority may proceed to the next group, or groups, until there are at least five final grade groups.

## **8.8 Probationary Appointment**

When a vacancy in a position is filled by an original appointment of an eligible, such appointee shall serve a probationary period. The probationary period shall be from the date of appointment to the State Police service, and extending through twelve (12) months from the date of graduation from the State Police Training Academy. For employees who are non-competitively re-employed, such probationary period shall be twelve (12) months from the date of re-employment.

## **8.9 Job Appointment**

- (a) Temporary appointments for specified periods not exceeding twelve (12) months may be made when an employee is needed for temporary work or to substitute for a permanent or probationary employee.
- (b) The Director may authorize the appointment of any person who possesses the minimum qualifications stated in the class specifications.

## **8.10 (a) Reassignment**

The Appointing Authority may, with the approval of the Director, reassign any probationary or permanent employee from one position in a class to another position in a different class for which the employee

is qualified and which has the same hiring rate of pay.

(b) Change in Hours of Work

The appointing authority may, in the best interest of the State Police program, change the hours of work of any employee, if no change in the employee's class of position is affected.

(c) Change in Duty Station

1. The appointing authority may change the duty station of a permanent or probationary employee from one geographical area to another with or without the consent of the employee for a period not to exceed ninety (90) days, provided that the employer shall pay or provide all related expenses to the employee in accordance with State Travel Regulations.
2. The appointing authority may permanently change the duty station of a permanent employee from one geographical area to another with the consent of the employee, in which case the employer may, at the employer's option, pay all related moving and housing expenses. Such change shall be reported to the Director.
3. The appointing authority may permanently change the duty station of a permanent or probationary employee from one geographical area to another without the consent of the employee, provided that the change is necessary to accomplish the department's mission, is, before such change, approved by the Commission at a public hearing, and provided that the employer shall pay all related moving and housing expenses.

(d) Detail to Special Duty

1. When, in the discretion of the appointing authority, the services of an employee are temporarily needed in a higher position within

the department, other than the position to which the employee is regularly assigned, the employee may be detailed to perform the duties of such position for a period not to exceed thirty (30) calendar days without change in title, status or pay.

2. If the detail exceeds thirty (30) calendar days, within five (5) business days after that, the employee shall be officially detailed into the position, with the approval of the Director. The notice of the official detail shall state the position and class to which the employee has been temporarily assigned, and briefly describe the duties such employee is then performing in the detail, and the anticipated duration of the detail.
3. When an employee is officially detailed to special duty, the employee shall be retroactively paid at the rate they could receive upon promotion to such position, all in accordance with Rule 6.11.
4. An employee detailed into a position must meet the minimum qualifications for the detailed job.

(e) Temporary Duty Assignment (TDY)

1. When in the discretion of the appointing authority, the services of an employee are temporarily needed in a position within the same or lower class, an employee may be assigned to such temporary duty for a period not to exceed one hundred eighty (180) days. Such assignment to temporary duty shall not affect the employee's title, status or pay.
2. When a temporary duty assignment exceeds thirty (30) calendar days, the appointing authority shall, within five (5) business days after that, report such temporary duty assignment to the Director in writing. The notification shall briefly describe the assigned temporary duties to be performed, and the anticipated duration of the temporary assignment.



3. When the assignment to temporary duty requires a change in the employee's duty station from one geographical area to another, the appointing authority shall pay all related expenses of such temporary assignment, in accordance with State Travel Regulations.

#### **8.11 Noncompetitive Re-employment Based on Prior State Service**

- (a) With the approval of the Director, a former permanent employee who has been separated from the classified State Police Service may, within five (5) years from separation, be noncompetitively re-employed in any job for which the former employee is qualified and which has the same or lower entrance salary as the current hiring rate for the job in which the employee had permanent status. Further, if the job in which an employee or former employee held permanent status undergoes a change in title, other than an upward reallocation of the position after the employee separated from it, or undergoes a change in minimum qualification requirements, the former employee shall not lose this re-employment eligibility for such position or lower position in the same job series, if such exists, except where the qualification lacking is one required by law or under a recognized accreditation program. In this case eligibility remains, even if the entrance pay has moved upward. Further, the employee shall be eligible to be re-employed in any other job at the same or lower current entrance pay as the job to which their former position changed in title, provided the former employee meets the minimum qualification requirements.
- (b) No former employee whose last separation from the classified service was by removal due to delinquency, misconduct, unsatisfactory performance or by resignation to escape possible disciplinary action shall be eligible for noncompetitive re-employment under the provisions of this Rule; nor shall any person acquire eligibility for noncompetitive re-employment through service in a position from which they were separated or demoted for delinquency, misconduct or unsatisfactory performance.

### **8.12 Restoration of Duty Upon Return from Military Service**

Any employee, who subsequent to June 24, 1948, has left or leaves a classified position in which he was or is serving with provisional, probationary or permanent status, for active duty in the armed forces of the United States for not more than six years of voluntary service or an indefinite period of involuntary service and who upon separation from the armed forces of the United States by honorable discharge or under honorable conditions makes application for re-employment within ninety days thereof or within ninety days after he is released from hospitalization continuing after discharge for a period of not more than one year shall:

- (3) If still qualified to perform the duties of such position, be restored by the department to such position or to a position of like seniority, status and pay; or
- (2) If not qualified to perform the duties of such position by reason of disability sustained during such service but qualified to perform duties of any other position in the department where he formerly worked be restored to such other position the duties of which he is qualified to perform as will provide him like seniority, status and pay or the nearest approximation thereof consistent with the circumstances in his case.

### **8.13 Promotion**

- (a) Subject to the provisions of Rules 8.7, each promotion shall be made by appointing one of the eligibles within the five highest final grade groups on a promotional certificate issued by the Director following competitive examination. If there are five (5) or fewer qualified applicants for a vacancy, the Director may declare a noncompetitive situation and forego testing for that vacancy. In such case, the applicants shall be rated "Eligible."
- (b) The Director shall issue a promotional certificate from a register of eligibles established following a competitive promotional examination. Candidates shall

be certified in grade order.

- (c) The Director shall not include in any promotional certification, nor authorize the non-competitive promotion, of the name of an employee having a current unacceptable service rating (i.e., "needs improvement" or "unsatisfactory").

#### **8.14 Demotion**

A permanent or probationary employee may be demoted for cause, or at the employee's request, to any position for which the employee possesses the qualifications specified in the appropriate standards of requirements for such position.

#### **8.15 Fingerprinting of Employees**

All applicants for the State Police classified service shall be required to provide a classifiable set of fingerprints.

#### **8.16 Substance Abuse Testing**

The Office of State Police may establish and implement a policy of substance abuse testing of candidates and employees, pursuant to State law.

#### **8.17 Cancellation of Eligibility for Appointment**

- (a) The Director shall cancel the employment eligibility of any applicants, or of any probational or temporary employees, following certification or employment if:
  - 1. Their employment in the State Police Service would be prohibited by law; or
  - 2. They are prohibited from employment for any of the reasons listed in Rule 7.5(a).
- (b) An applicant whose employment eligibility has been canceled under this Rule shall be notified promptly by the Director.
- (c) The Director shall notify the employee and the appointing authority immediately when an employee's eligibility has been canceled in accordance with this Rule, and the appointing authority shall terminate the

employee from State Police within five (5) days of receipt of such notice.

T/S - 36  
09/19/2002

**CHAPTER 9**  
**PROBATIONARY PERIOD**

**9.1 Probationary Period**

- (a) The probationary period shall be an essential part of the examination process and shall be used for the most effective adjustment of a new employee and for the elimination of any probationary employee whose performance does not meet the required performance standard of work.

A probationary period shall be served by all employees from the date of appointment to the State Police service and extending through 12 months from the date of graduation from the State Police Training Academy. For employees who are non-competitively reemployed, such probationary period shall be 12 months from the date of reemployment.

- (b) A permanent employee who is promoted, transferred, reassigned or demoted to another position shall not serve a probationary period in the new position.
- (c) A probationary employee may be removed by the Appointing Authority at any time, provided that the Appointing Authority furnish the Director reasons therefore in writing.

(d) A former employee who is appointed from a department preferred re-employment list is not required to serve a probationary period in the new position.

- (e) The probationary period of a part-time employee shall be computed on the same calendar basis as though he were employed full time.

- (f) The Appointing Authority may request, and the Executive Director may grant, up to two successive six month extensions of an employee's probationary period when the request is based on reasonable justification and such extension is in the best interest of the employee and the State Police service. Notwithstanding any other provision of the Rules, an

Extension of Probationary Period is not a disciplinary action and may not be appealed to the Commission, except on the basis of discrimination or a violation of the Article of these Rules.

## **9.2 Permanent Appointment Action Following Probationary Period**

- (a) Permanent appointment of a probationary employee shall begin upon certification by the Appointing Authority. Certification will consist of a statement in the "remarks" section of the SF- 1, " I certify that this employee has met the required standard of work during the probationary period."
- (b) A permanent appointment must be reported on an SF-1.
- (c) The Appointing Authority shall remove employees who have not been certified as permanent at the end of the twelve- month probationary period in accordance with the provisions of Rule 9.1 (e).

## **9.3 Interruption of Probationary Period Because of Physical and/or Mental Disability or Condition.**

- (a) A probationary employee whose physical and/or mental disability or condition prevents them from performing their duties, shall, upon their request to the appointing authority, be placed in an appropriate leave status for a period not to exceed one (1) year, which shall have the effect of interrupting their probationary period without prejudice.

In the event no other leave status is available to the employee, he or she may be placed on Leave Without Pay during the interruption of their probationary period.

- (b) Upon the resumption of their duties, such employee shall be returned to duty in a probationary status at the point in the probationary period he or she reached before being so absent.
- (c) After a probationary employee has been absent from duty because of such a physical and/or mental disability or condition for one year, the appointing authority shall, for this reason, remove such employee and shall report such removal, and the reasons therefor, to the Director.

- (d) Such physical and/or mental disability or condition which results from an employees willful misconduct shall not be the basis of the interruption provided for in Subsection (a) herein, nor shall such physical and/or mental disability or condition resulting from the employee=s willful misconduct prevent the termination of such probationary employee as provided for by Rule 9.1(a) and (e).
- (e) The provisions of Rule 12.10 and, except as hereinafter provided, the provisions of Rule 9.1(e) shall not be effective during the period of interruption provided for by Rule 9.3(a) and Rule 9.4.
- (f) A probationary employee whose physical and/or mental disability or condition prevents them from performing their duties, or a probationary employee who is absent from duty for military training or military active duty, may be removed by the Appointing Authority under the provisions of Rule 9.1(e) only after certification to the Director of the reasons for the removal and approval by the Director of that removal.

Should the Director disapprove such removal, the employee shall continue in their probationary employment, pursuant to the provisions of Rules 9.3(a) through (c) or Rule 9.4.

#### **9.4 Interruption of Probationary Period for Military Purposes**

A probationary employee who is absent from duty for military training or military active duty, without regard to the length of time of such absence, shall be returned to duty in a probationary status at the point in the probationary period he or she reached before being so absent.

#### **9.5 An employee cannot attain permanent status or acquire other rights and benefits of permanent appointment for more than one full-time equivalent position in State service.**

## **CHAPTER 10**

### **Performance Evaluation System**

#### **10.1 Performance Evaluation System; Required Components**

The Performance Evaluation System is a tool used to measure individual performance and to develop employees into high-performing individuals. This Performance Evaluation System is effective July 1, 2014, and applies to all classified employees. The performance evaluation year shall be July 1st through June 30th of each year. The Performance Evaluation System shall consist of at least the following components:

1. A performance plan that lists the performance factors on which the employee's overall performance will be evaluated,
2. A planning session at which the evaluating supervisor and the employee discuss the performance plan,
3. A standard planning and evaluation form approved by the Director,
4. A three-level evaluation system, and
5. A planning and evaluation instruction manual that is accessible to all employees.

The appointing authority may make variations to the performance planning and evaluation form or instructions with prior written approval from the Director.

#### **10.2 Evaluating Supervisor & Second Level Supervisor**

- a) The Evaluating Supervisor shall be the employee's immediate supervisor or someone in the employee's supervisory chain of command unless unavailable, in which case, the appointing authority or his designee shall designate a person most familiar with the employee's performance. The Evaluating Supervisor shall be responsible for administering the performance evaluation system for his designated employees in accordance with these Rules and any applicable agency policies.
- b) The Second Level Supervisor for each employee shall be the immediate supervisor's supervisor. If unavailable, the appointing authority or his designee shall designate a person most familiar with the employee's performance. The Second Level Supervisor must approve the performance plan and the performance evaluation prepared by the Evaluating Supervisor before they are given to the



employee for signature. The Second Level Evaluator shall be responsible for administering the performance evaluation system in accordance with these Rules and any applicable agency policies.

### **10.3 Performance Factors to be Rated**

(a) Each employee shall be evaluated on his overall performance based on work tasks and behavior standards determined by the evaluating supervisor to be requirements of the employee's job.

(b) Additionally, each supervisory employee shall be evaluated on his administration of the performance evaluation system as required by these rules.

### **10.4 Performance Plan and Performance Planning Session**

(a) The Evaluating Supervisor shall prepare a performance plan at the beginning of each evaluation period. The performance plan shall list work tasks and behavior standards on which the employee's overall performance will be evaluated. These shall be recorded on the planning and evaluation form.

(b) The Evaluating Supervisor shall obtain the Second Level Supervisor's signature approval of the performance planning and evaluation form prior to presenting it to the employee for final signature.

(c) After obtaining the Second Level Supervisor's signature approval of the performance plan, the Evaluating Supervisor will conduct a performance planning session with the employee.

(d) During the planning session, the Evaluating Supervisor shall present the performance planning and evaluation form to the employee and discuss the performance work tasks and behavior standards on which he will be evaluated and the performance that will be expected of him during the coming evaluation period.

(e) The Evaluating Supervisor and the employee shall sign and date the performance planning and evaluation form to document the planning session. The employee shall be given a copy of the form. Should the employee decline to sign the performance planning and evaluation form, the Evaluating Supervisor shall note this on the form and record the date

that the planning session occurred. An employee cannot prevent the planning session from becoming official by refusing to sign the form.

(f) Planning sessions shall be conducted during the first three (3) calendar months following:

- 1.the appointment of a new employee;
- 2.the permanent movement of an employee into a position having a different position number with significantly different duties;
- 3.the beginning of the new performance evaluation year (no later than 9/30).

(g) A performance planning session may be conducted when:

- 1.the employee gets a new Evaluating Supervisor,
- 2.performance expectations change, or
- 3.the Evaluating Supervisor deems a performance planning session is appropriate.

#### **10.5 Overall Performance Evaluation**

(a) At the end of the performance evaluation period, the Evaluating Supervisor shall assign one of the three values listed below to the employee's overall performance based upon the work tasks and behavior standards established in the performance plan.

Exceptional: Work and behavior consistently exceeded the performance criteria.

Successful: Work and behavior met the performance criteria.

Needs Improvement/Unsuccessful: Work and/or behavior did not meet the performance criteria.

(b) An Evaluating Supervisor may elect to assign an employee who worked less than three calendar months within the performance evaluation year a default overall evaluation of "Not Evaluated." An overall evaluation of "Not Evaluated" shall have the same effect as an evaluation of "Successful." "Not Evaluated" evaluations may be given only when:

1. the employee is active as of June 30th, the end of the performance year, and
2. the employee has worked less than three (3) months at the evaluating agency within the performance year, and
3. the appointing authority determines that not enough time has elapsed to create an evaluation for the employee.

(c) When an evaluation is in violation of these rules, the employee shall receive an overall evaluation of "Unrated." "Unrated" evaluations shall have the same effect as an evaluation of "Successful."

#### **10.6 Official Performance Evaluations and Evaluation Sessions**

(a) Official performance evaluations are required for all classified employees. The Evaluating Supervisor shall base the official evaluation of the employee's performance on the work tasks and behavior standards as stated on the performance planning and evaluation form.

(b) Official evaluations shall be made after the performance year has ended and must be rendered no later than August 31st. All official overall evaluations will be recorded with an effective date of July 1st.

(c) Evaluations become official on the date they are rendered. No evaluations shall be rendered after August 31st. To render an official evaluation, the Evaluating Supervisor shall:

1. complete a performance evaluation form after June 30th of the evaluation year,
2. provide documentation to support an evaluation of "Needs Improvement/Unsuccessful" or "Exceptional,"
3. obtain the Second Level Supervisor's signed approval of the evaluation form prior to discussion with the employee,
4. discuss the evaluation with the employee and present the evaluation form to the employee to be signed and dated, and
5. give the employee a copy of the evaluation form with his official overall evaluation noted.

(d) When an employee is not available, the provisions of this rule shall be satisfied when notification to the

employee is made by mail. If the employee is notified by mail, the notification shall be deemed timely if it was mailed to the employee's most recent address on or before August 31st, as evidenced by official proof of mailing. The agency must maintain documentation that the employee was notified on or before August 31st.

(e) Should the employee decline to sign the performance evaluation form, the Evaluating Supervisor shall note this on the form and record the date that the evaluation session occurred. An employee cannot prevent the evaluation from becoming official by refusing to sign the form.

(f) Evaluations of "Unrated" shall be indicated on the final overall performance evaluation form by the Evaluating Supervisor, Second Level Supervisor, or Human Resources officer. An employee shall be notified when he has been assigned an official overall evaluation of "Unrated"

#### **10.7 Effects of "Needs Improvement/Unsuccessful" Rating or Re-Rating.**

(a) An evaluation of "Needs Improvement/Unsuccessful" is not a disciplinary action.

(b) Any employee whose official overall evaluation is "Needs Improvement/Unsuccessful" shall not be:

1. eligible for a performance adjustment, a promotion or permanent status, or
2. detailed to a higher level position unless approved in advance by the Director of the State Police Commission.

(c) An employee whose official overall evaluation is "Needs Improvement/Unsuccessful" may be separated or disciplined in accordance with the rules applicable to the employee's status.

#### **10.8 Effects of Absence of Official Evaluation**

An employee who is not evaluated in accordance with the provisions of these rules shall have an official overall evaluation of "Unrated" on the evaluation effective date of July 1st. Permanent employees shall have a right to request a review in accordance with the provisions of rule 10.9.

## **10.9 Agency Review**

(a) A permanent employee who receives an overall performance evaluation of "Unrated" or "Needs Improvement/Unsuccessful" may request an official review of that evaluation by an Agency Reviewer(s).

(b) The appointing authority shall designate the Agency Reviewer or an Agency Review Panel. The Reviewer(s) shall not be either the Evaluating Supervisor or the Second Level Evaluator who signed the evaluation being reviewed.

(c) The official overall evaluation may only be changed by the Agency Reviewer(s).

(d) A request for review must be submitted in writing and be postmarked or received in the employing agency's Human Resources office no later than September 15th following the evaluation year. In the request for review, the employee must explain and provide supporting documentation for the request for review.

(e) If the request for review is timely, the Agency Reviewer(s) must review the employee's request, the evaluation given and any supporting documentation provided. The contested evaluation must be discussed with the employee and the Evaluating Supervisor.

(f) The Agency Reviewer(s) shall give the employee, the Evaluating Supervisor, and the Human Resources office written notice of the results of their review. This notification shall be provided no later than October 15th. Any change in evaluation shall be retroactive to July 1st.

(g) The performance evaluation form, the employee's request for review, the Agency Reviewer(s)' decision, and the supporting documentation attached to the performance evaluation, as well as any documents requested from the employee or supervisor during the review, shall be maintained in the employee's official personnel file or other secured performance file maintained in Human Resources.

(h) The agency's grievance process shall not be used to review or reconsider evaluations or a procedural violation of these rules.

## **10.10 Exceptions**

For compelling reasons, the Director may approve exceptions to these Rules.

#### **10.11 Record Keeping Requirements**

Each completed performance evaluation form shall be kept in the agency Human Resource office or other designated, secure location not accessible to the public, and shall not be considered a public record. Completed forms must be available upon request to the State Police Commission for auditing purposes, to other agencies of the State of Louisiana for purposes of checking employment references and to the employee.

## **CHAPTER 11**

### **HOURS OF WORK, ANNUAL, SICK AND OTHER FORMS OF LEAVE**

#### **11.1 Full-Time Employees**

- (a) Subject to the provisions of subsections (b) hereof, the work period for each full-time employee in the classified service shall be eighty (80) hours in a two week period.
- (b) Subject to the provisions of subsections (a) and (b) of this Rule, the appropriate appointing authority shall designate and record the number of hours and days which will constitute the regular work period of each full-time employee.

#### **11.2 Part-Time Employees**

- (a) When the services of an employee are not needed on a full-time basis his appointing authority may establish a regular tour of duty for him on a part-time basis.
- (b) The appropriate appointing authority shall designate and record the number of hours and days which will constitute the regular work week of each part-time employee.

#### **11.3 Intermittent Workers**

When the services of an employee are not needed on a regularly scheduled basis, the appointing authority may appoint an employee to serve on a intermittent hourly, daily, weekly or monthly basis.

##### **11.3.1 Authority To Require Performance of Overtime**

An employee in the classified service may be required by his appointing authority to work overtime.

#### **11.4 Repealed and re-enacted effective July 1, 1973 as Rules 1.3.1 and 1.39.1**

#### **11.5 Earning of Annual and Sick Leave**

- (a) Annual and sick leave shall be earned by each full-time and each part-time employee who has a regular tour of duty, except that no employee shall earn annual or sick leave while serving on restricted appointment or while using leave from an agency leave pool as defined in Rule 11.34.

(b) The earning of such leave shall be based on the equivalent of years of full-time State service and shall be creditable at the end of each calendar month or at the end of each regular pay period in accordance with the following general schedule.

1. Less than three years of service, at the rate of .0461 hour of annual leave and .0461 hour of sick leave for each hour of regular duty.
2. Three years but less than five years of service, at the rate of .0576 hour of annual leave and .0576 hour of sick leave for each hour of regular duty.
3. Five years but less than ten years of service, at the rate of .0692 hour of annual leave and .0692 hour of sick leave for each hour of regular duty.
4. Ten years but less than fifteen years of service, at the rate of .0807 hour of annual leave and .0807 hour of sick leave for each hour of regular duty.
5. Fifteen or more years of service, at the rate of .0923 hour of annual leave and .0923 hour of sick leave for each hour of regular duty.

(c) Repealed, effective July 1, 1973

(d) No employee shall be credited with annual or sick leave:

1. for any overtime hour;
2. for any hour of leave without pay;
3. while he is on leave with or without pay, until such time as he returns to active working duty, except where inability to return to duty is caused by illness or incapacity as defined by Rule 1.39.1;
4. for any hour in on-call status outside his regular duty hours as defined in Rules 11.1 and 11.2;



5. For any hour of travel or other activity outside his regular duty hours as defined in Rules 11.1 and 11.2;
6. For any hour of a holiday or other non-work day which occurs while he is on leave without pay.

#### **11.6 Carrying Leave Forward**

- (a) Accrued unused annual and sick leave earned by an employee shall be carried forward to succeeding calendar years.
- (b) Repealed, effective March 15, 1973.

#### **11.7 Use of Annual Leave**

- (a) Annual leave must be applied for by the employee and may be used only when approved by the appointing authority or his designated representative.
- (b) Annual leave shall not be charged for non-work days.
- (c) The minimum charge to annual leave records shall not be less than one-half hour.

#### **11.8 Repealed, effective December 17, 1957**

#### **11.9 Enforced Annual Leave**

- (a) Subject to subsection (b) hereof, and military leave provisions in Rule 11.26, an appointing authority may require an employee to take annual leave whenever in his administrative judgment such action would be in the best interest of the Department.
- (b) No employee shall be required to reduce his accrued annual leave to less than 240 hours; however, subject to the military leave provisions of Rule 11.26, an employee may be required to take any part or all of his accrued annual leave prior to being granted leave without pay.

#### **11.10 Payment For Annual Leave Upon Separation**

- (a) Subject to Sub-section (b) of this Rule each employee

upon separation from the Classified Service shall be paid the value of his accrued annual leave in a lump sum disregarding any final fraction of an hour; provided, that the privileges of this rule shall not extend to any employee who is terminated for theft of agency fund or property. The payment for such leave shall be computed as follows:

1. When an employee is paid wages on an hourly basis, multiply his regular hourly rate by the number of hours of accrued annual leave.
  2. When an employee is paid on other than an hourly basis, determine his hourly rate by converting his salary in accordance with provisions in the uniform pay plan for conversion to a working hourly rate. multiply his converted hourly rate by the number of hours of accrued annual leave.
- (b) No terminal payment for annual leave earned under these Rules shall exceed the value of 300 hours, computed on the basis of the employee's hourly rate of pay at the time of his separation.
  - (c) No payment for annual leave under this Rule shall operate to continue the payee as a Classified employee beyond the last day of active duty.
  - (d) Payment for annual leave earned under administrative rules or regulations in effect prior to July 1, 1953 may be made upon termination in accord with such rules or regulations.
  - (e) When an employee who has been paid under this Rule for accumulated annual leave is re-employed in a classified position, he shall pay the Department which re-employs him the value of such annual leave at the rate paid him less the value of working hours for which he has been paid which intervene between the last day worked and the date of reemployment and shall be given credit for the number of hours of annual leave for which he has made reimbursement.
  - (f) Repealed and reenacted as Sub-section (d)6 of Rule 11.5, effective July 1, 1973.

(g) Repealed, effective June 8, 1983.

**11.11 Repealed, effective December 17, 1957**

**11.12 Repealed, effective December 17, 1957**

**11.13 Use of Sick Leave**

(a) Sick leave may be utilized by an employee who has sufficient leave to his credit for necessary absence from duty because of:

1. Illness or injury which prevents him from performing his usual duties.
2. Medical, dental, or optical consultation or treatment.
3. Repealed, effective January 1, 1963.

(b) Sick leave shall not be charged for non-work days.

(c) The minimum charge for sick leave shall be one-half hour.

(d) Repealed, effective June 30, 1972.

**11.14 Certificate Required When Sick Leave Taken**

An employee who has taken sick leave shall file with his appointing authority a certificate stating the cause of his absence and the amount of time taken. The appointing authority may require a statement from a registered physician or some other acceptable proof that the employee was ill and unable to report to work.

**11.15 Repealed, effective July 11, 1984**

**11.16 Repealed, effective December 17, 1957**

**11.17 Repealed, effective December 17, 1957**

#### **11.18 Cancellation or Continuance of Annual and Sick Leave**

- (a) All annual leave accrued by an employee whose services are terminated for cause except that for which he must be paid, and all sick leave accrued by him shall be canceled at the time of termination.
- (b) All annual leave accrued by an employee for which he is not paid upon being laid off and all sick leave accumulated by him shall again be credited to him if he is re-employed within five years following his layoff: provided, that this Subsection shall apply only to a laid off employee who is re-employed on or after January 1, 1972.
- (c) Repealed, effective December 17, 1957
- (d) Subject to the provisions of Rule 11.19(c), all annual leave accrued by an employee for which he is not paid upon resignation and all unused sick leave accumulated by him shall again be credited to him if he is later employed with probationary, or permanent appointment status in the classified service within a period of five years from date of separation; provided, that the privileges of this Rule shall not extend to any employee whose last separation from the Classified Service was by resignation to escape possible disciplinary action.
- (e) Subject to the provisions of Rule 11.19 and Subsection (d) hereof, all annual leave for which he is not paid upon resignation and all sick leave accrued by an employee who resigns shall be canceled.

#### **11.19 Transferring Annual and Sick Leave Between Departments**

- (a) Repealed, effective July 1, 1973
- (b) Subject to the provisions of Subsection (c) of this Rule, all annual leave accrued by an employee for which he is not paid and all sick leave accrued by him whenever he changes from employment in one department to employment in another department within a period of thirty calendar days shall be certified by his former department to the other department and shall be credited to the employee.

- (c) All annual leave accrued by an employee for which he was not paid and all sick leave accrued by him at time of separation to enter military service shall be credited to him upon his reemployment in a classified position following such military service.
- (d) The annual and sick leave credits of an unclassified employee, earned under the provisions of an Executive Order of the Governor, who enters the Classified Service without a break in service on one or more working days, shall be certified and credited in the same manner as provided in this Rule for classified employees.

#### **11.20 Repealed, effective December 17, 1957**

#### **11.21 Workmen's Compensation Payments**

When an employee is absent from work due to disabilities for which he is entitled to workmen's compensation he

- (a) shall, to the extent of the amount accrued to his credit, be granted sick leave not to exceed the amount necessary to receive total payments for leave and workmen's compensation equal to his regular salary.
- (b) may, to the extent of the amount accrued to his credit, be granted annual leave or a combination of annual and sick leave not to exceed the amount necessary to receive total payments for leave and workmen's compensation equal to his regular salary.
- (c) may be granted leave without pay

##### **11.21.1**

- (a) When an employee engaged in law enforcement work is disabled while in the performance of duty of a hazardous nature, and because of such disability is unable to perform his usual duties, his appointing authority may, with prior approval of the Director, grant such disabled employee a leave of absence with full pay not to exceed six months during the period of such disability without charge against the employee's

accumulated sick or annual leave, provided such employee must pay to his Department all amounts received by him as Workmen's Compensation benefits. Requests for such leave shall be submitted in writing by the appointing authority and shall include all information necessary to determine whether an employee is covered by this Rule.

- (b) If a request, made in accordance with the provisions of Subsection (a) of this Rule, is found to be questionable or if the leave requested exceeds or later extends beyond six months, the Director shall submit such request to the Commission for its review and approval.

#### **11.22 Repealed, effective December 16, 1957**

#### **11.23 Civil, Emergency, and Special Leave**

An employee shall be given time off without loss of pay, annual leave, or sick leave when

- (a) Performing jury duty.
- (b) Summoned to appear as a witness before a court, grand jury, or other public body or commission, provided that for purposes of this Subsection a plaintiff or defendant shall not be considered a witness, nor shall this Subsection apply to an employee summoned as a witness as a result of employment other than State employees.
- (c) Performing emergency civilian duty in relation to national defense.
- (d) His appointing authority determines that he is prevented by an act of God from performing duty.
- (e) Amended and Re-enacted effective January 11, 1989 as Rule 11.23.2.
- (f) Participating in a State Police Commission examination on a regular work day, or taking a required examination pertinent to the examinee's State employment, before a State licensing board.

- (g) The appointing authority determines that because of local conditions or celebrations it is impracticable for his employees in such locality to work.
- (h) The employee is ordered to report for pre-induction physical examination incident to possible entry into the military forces of the United States.
- (i) The employee is a member of the National Guard and is ordered to active duty incident to local emergency, act of God, civil or criminal insurrection, civil or criminal disobedience, or similar occurrences of an extraordinary and emergent nature which threatens or affects the peace of property of the people.
- (j) Engaged in the representation of a client in a criminal proceeding pursuant to an order of a court of competent jurisdiction, provided if compensation for such services is available from another source, he may not accept the special leave and the compensation.
- (k) The employee is a current member of a Civil Air Patrol and incident to such membership is order to perform duty with troops or participate in field exercises or training, except that such leave shall not exceed 15 working days in any one calendar year and shall not be used for unit meeting or training conducted during such meetings.

#### **11.23.1 Funeral Leave**

Probationary and permanent employees may be granted time off without loss of pay, annual leave or sick leave when attending the funeral or burial rites of a parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, spouse, mother-in-law, father-in-law, grand-parent, or grand-child; provided such time off shall not exceed three (3) days on any one occasion.

#### **11.23.2 Voting Leave**

A probationary or permanent employee may be granted time off without loss of pay, annual leave or sick leave when voting in a primary, general or special election which falls in his regularly scheduled work

day, provided not more than two hours of leave shall be allowed to vote in the parish where he is employed and not more than one day to vote in another parish.

#### **11.24 Educational Leave**

- (a) Leave without pay for educational purposes may be granted an employee for a period equivalent to the period of attendance at the educational institution.
- (b) Educational leave with pay may be granted an employee for a maximum of thirty calendar days in one calendar year if the course of instruction to be taken is pertinent to the work of the employee in his Department, provided that a permanent employee may be granted such leave for a maximum of ninety calendar days in one calendar year if the Department requires him to take special training.
- (c) Employees granted educational leave without pay may be granted a stipend if there are funds available for that purpose.

#### **11.25 Repealed, effective June 30, 1972**

#### **11.26 Military Leave**

- (1) Military Leave with Pay
  - 1. Provided advance notice is given, employees serving on probationary or permanent status, who are members of a Reserve Component of the Armed Forces of the United States, shall be entitled to military leave with pay. Notice shall be in writing. It may be provided by the employee or by an appropriate officer of the branch of the military in which the employee will be serving.
  - 2. No advance notice is required when such notice is either precluded by military necessity, or otherwise impossible or unreasonable.
  - 3. Maximum military leave with pay for military purposes is fifteen (15) working days per calendar year, except that it shall be limited to fifteen (15) working days for each tour of active duty.



(2) Use of Annual and Compensatory Leave for Military Purposes

1. Employees serving on probationary or permanent status, who give advance notice of military obligations and apply for annual or compensatory leave for military purposes, shall be granted such leave.
2. No advance notice is required when such notice is either precluded by military necessity, or otherwise impossible or unreasonable.

(3) Use of Leave Without Pay for Military Purposes

Employees serving on probationary status or permanent status, who have either exhausted annual leave and compensatory time or choose not to use this paid leave for military purposes, shall be placed on leave without pay. This period of leave without pay for military purposes shall not exceed six (6) years. After six years, they shall be separated from the classified service.

(4) Rights Upon Return

Probationary and permanent employees returning to their classified positions under the provisions of this Rule or Rule 8.12, shall return with such seniority, status, pay, and annual and sick leave accrual rates as they would have had if they had not been absent military training or military active duty; however, status is subject to the provision of Rule 9.4.

- (5) A probationary or permanent employee, who is a member of a reserve component of the Armed Forces of the United States and is involuntarily called to active duty prior to December 31, 1991 as a result of the August 1990 Persian Gulf Crisis, and is released from satisfactory active military duty, after such involuntary service, upon furnishing appropriate official documents to the appointing authority and where the military base pay was less than the State Police Trooper base pay:

- (a) If paid leave was utilized during the entire

period of voluntary service, shall be credited with the value of annual and/or compensatory leave represented by the difference in military base pay and state base pay in the same proportion as that annual leave and/or compensatory time was utilized during the period of involuntary service, and said credit shall be in the form of restoration of such leave; or

1. If leave without pay was utilized for the entire period of involuntary service, shall be paid the difference between the military base pay and the state base pay; or,

2. If leave without pay was utilized for a portion of the period of involuntary service, shall be paid a portion of the difference in military base pay and state base pay that is the same as the portion that leave without pay is of the total of all leave taken. For the remaining portion of the pay difference, part (a) shall apply; and,

Without regard to whether the military base pay was less than the State Police Trooper base pay:

2. shall be allowed fifteen (15) working days per calendar year of military leave with pay;

3. and shall continue to accrue sick and annual leave for a period not in excess of one year from the beginning date of involuntary service on the same basis as though he had not been activated and be credited such leave and all emoluments upon return from active duty as though he had been activated;

4. and shall be retained in either leave with pay or leave without pay status for the duration of the involuntary active duty;

5. and shall not be subject to separation for the duration of the resulting involuntary active duty, provided he returns to employment within ninety days after his release from active duty; and;

6. may repurchase in one payment only all or part of any annual leave utilized during the period of involuntary service within twenty-four months from return to active state service.

- (6) A probationary or permanent employee, who was called to involuntary active duty as a result of the August 1990 Persian Gulf Crisis, and resigned from state service, may, at his request, and within 90 days of his release from active duty, have his resignation rescinded and become eligible for the benefits of subsection (e) of this rule.

#### **11.27 Leave of Absence Without Pay**

- (a) An appointing authority may extend leave of absence without pay to an employee for a period not to exceed one year, provided that such leave shall not prolong the period of his appointment.
- (b) After presenting justifiable reasons in writing to the Director and with the approval, an appointing authority may extend to a permanent employee leave of absence without pay for a period or periods in excess of one year.
- (c) The appointing of a provisional employee who fails to return to duty in pay status on or before the first working day following the expiration date of any period of leave without pay extended him shall terminate as of the close of business on such expiration date.
- (d) The appointment of an employee who has not completed his probationary period and who fails to return to duty in pay status on or before the first working day following the expiration date of any period of leave without pay extended him shall terminate as of the close of business on such expiration.
- (e) A permanent employee who has been extended leave of absence without pay under the provisions of Subsection (a) or (b), or both, hereof shall be restored to duty in pay status on or before the first working day following the expiration of such leave of absence. If the employee fails to report for or refuses to be restored to duty in pay status on the first working day following the expiration of his approved leave of absence without pay, or at an earlier day upon reasonable and proper notice from his appointing

authority, he shall be considered as having deserted his position and shall be removed in accordance with the provisions of Chapter 12 of these Rules.

- (f) An appointing authority on its own initiative or at the request of the employee may curtail a period of leave of absence without pay extended to an employee, provided such curtailment is for the best interest of the State service and reasonable and proper notice thereof is furnished to the employee. Curtailment must not conflict with the provisions of Rule 11.26(b).
- (g) In addition to any disciplinary action which may be imposed against an employee for an unapproved absence, such employee may be placed on leave without pay by his appointing authority for the period of unapproved absence.

#### **11.27.1 Leave of Absence to Assume Unclassified Position**

- (a) Notwithstanding the provision of Rule 11.27(a) and/or (b), upon the acceptance by a permanent employee of a position in the unclassified State Police Service, the employee shall be placed on a leave of absence without pay. The leave of absence shall continue until the employee leaves the unclassified position by termination or resignation.

Upon placing the employee on such leave of absence, that employee's position and all vacancies within the chain of command created by the filling of that position may only be filled on a permanent basis.

- (b) An employee, who has been placed on a leave of absence without pay under the provisions of Subsection (a) hereof, shall be restored to duty, in pay status, on the first working day following the effective date of their termination or resignation from their unclassified position.

If, without valid excuse, the employee fails to report for or refuses to be restored to duty in pay status as provided for in the preceding paragraph, he or she shall be considered as having deserted their position and shall be removed in accordance with the provisions

of Chapter 12 of these Rules.

- (c) A probationary employee shall not be placed on leave to serve in an unclassified position.
- (d) If, upon the return of an employee from an unclassified position, their classification position is occupied, the employee with the greatest length of total state service shall retain that position. In such case, the employee with the lesser amount of total state service shall be displaced from that position in accordance with the provisions of Chapter 17.

#### **11.28 Holidays**

- (a) An employee who is required by his appointing authority to work on his official holiday, shall be entitled to compensatory leave or overtime pay benefits as authorized in Rule 6.23(a).
- (b) When a holiday falls on an employee's regular day off, and the appointing authority required the employee to work on his designated holiday and the actual holiday, the appointing authority shall select only one of the two days as the employee's official holiday for overtime compensation as provided by Rule 6.23. The other day is to be compensated as regular overtime work.
- (c) Repealed, effective June 7, 1989.

#### **11.29 Compensatory Leave**

- (a) Subject to provision of Subsections (b) and (g) of this Rule, and in accordance with Rule 6.18 through 6.27 and the requirements of Federal rules, statutes, regulations and judicial decisions, an employee who is required to perform overtime duty may, at the option of the appointing authority, be credited with compensatory leave for the hours he has been required to work.
- (b) Compensatory leave shall not be credited to any employee in the classified service while he is serving on an intermittent basis.

- (c) Subject to the provisions of Subsections (e) and (f) of this Rule, compensatory leave credited to an employee may be used by him, with the approval of his appointing authority.
- (d) An employee who has been credited with compensatory leave may be required, by his appointing authority, to take all or part of such leave at any time.
- (e) Upon separation or transfer from a department, the following shall apply to compensatory leave balances:
  - 1. All unused compensatory leave earned at the time and one-half rate and credited to an employee shall be paid upon his separation or transfer from the department in which he earned it at one of the rates below, whichever is higher:
    - (a) The average regular rate received by the employee during the last three years of his employment, or
    - (b) The final regular rate received by the employee.
  - 2. All unused compensatory leave earned hour for hour and credited to an employee may be paid upon his separation or transfer from the department in which he earned it at the final regular rate received by the employee, excluding premium pay, shift differential, and non-cash compensation.
  - 3. All unused compensatory leave earned hour for hour, if not paid to the employee upon separation shall be canceled upon his separation or transfer from the department in which he earned it. Such leave shall not be re-credited to him upon his reemployment in that or any other department.
- (f) Caps on accumulation of compensatory leave are found under the provisions of Rule 6.25. Excess accumulation of compensatory leave earned hour for hour (non-Fair Labor Standards Act) will be canceled at the end of the calendar year.

- (g) When in his administrative judgment, an appointing authority determines that overtime duty must be performed by one or more of his employees incident to national or local emergency, act of God, civil or criminal insurrection, civil or criminal disobedience, or similar occurrences of an extraordinary and emergent nature which threatens or affects the peace or property of the people, he may require such employees to perform overtime duty; and the provisions of Rules 11.29(a), 6.20, 6.21, 6.22, and 6.23 shall not apply to such duty unless such overtime is required by Federal rules, statutes, regulations, and judicial decisions.
- (h) Amended and re-enacted, effective March 17, 1980, as Rule 11.29(f).
- (i) Amended and re-enacted, effective March 17, 1980, as Rule 11.29(g).
- (j) Amended and re-enacted, effective March 17, 1980, as Rule 11.29(g).

**11.30 Repealed, effective December 17, 1957**

**11.31 Forms**

The departments shall maintain uniform records on all types of leave on forms prescribed by the Director.

**11.32 Repealed, effective December 17, 1957**

**11.33 Repealed, effective December 17, 1957**

**11.34 Crisis Leave Pool**

Subject to the provisions of Rule 11.5(a), the appointing authority may establish a policy to implement and administer a pool of shared compensatory, annual or sick leave which may be used by employees who cannot work due to a crisis situation and who have insufficient appropriate paid leave to cover the absence needed for the crisis situation. An employee using leave from a crisis leave pool shall receive leave in sufficient quantity to ensure his wage replacement is 75% of the pay he would receive in a regularly scheduled work week. The policy must have the approval of the State Police Commission prior to

implementation. At minimum, the policy must include the following conditions and elements:

1. The policy shall establish a cap on the amount of compensatory, annual or sick leave which may be donated by an individual employee. No cap shall exceed 240 hours per employee per calendar year.
2. The policy shall establish a reasonable balance of compensatory, annual or sick leave that donors are required to retain after the leave donation.
3. The policy shall establish a cap on the amount of leave which may be used by an individual employee. The cap shall not exceed 540 hours during a 12 month period.
4. The policy shall establish and clearly define eligibility criteria and the crisis situations which will be covered.
5. The policy shall define a procedure for administering the leave pool.
6. The policy shall establish a prohibition against the use of coercion or pressure to donate leave.
7. The department may establish other policy elements and conditions as deemed necessary. All additional elements and conditions shall be in compliance with State Police Commission Rules.
8. The leave pool may be either:
  - (a) a pool consisting of leave hours donated and used;  
or
  - (b) a pool consisting of the dollar value of the leave donated and used.



## **Chapter 12**

### **Disciplinary Actions, Removals and Resignations**

#### **12.1 Appointing Authority**

Disciplinary and other actions authorized by this chapter may be taken only by the appointing authority or his or her designee.

#### **12.2 Cause; Disciplinary Actions**

(a) A permanent employee may only be disciplined for cause.

(b) Disciplinary actions include only the following: dismissals, suspensions without pay, reductions in pay, involuntary demotions and written reprimands.

#### **12.3 Restrictions On Suspensions Without Pay and Reductions in Pay**

(a) Except as provided by Rule 12.5 or as ordered by the Commission or agreed to under Chapter 13 or Chapter 16, a suspension without pay may not exceed 720 working hours.

(b) No disciplinary reduction in pay may bring an employee's pay below the minimum of his pay range or below minimum wage.

#### **12.4 Administrative Leave Pending Investigation**

(a) Where, in the judgment of the appointing authority, there is reason to suspect that an employee has engaged in conduct which would warrant disciplinary action, but the appointing authority does not then possess sufficient facts to support a disciplinary action, or an employee's dismissal or removal is proposed in accord with Rule 12.7, and the employee's continued presence on the job or performance of his duties reasonably poses a significant hazard or danger to the general health or safety or the efficiency of the public service, the employee may, either verbally or in writing, be placed on Administrative Leave with pay. Such leave shall not reduce the employee's annual or compensatory leave.

(b) When an employee is placed on Administrative Leave under the provisions of this rule, if feasible, the employee shall first be informed of the intended action and the reasons therefor and the employee shall be given an opportunity to respond verbally at that time. If such is not feasible, or will reasonably significantly endanger the general health or safety or the efficiency of the public service, such shall not be required and, in that case, the employee shall merely be informed of the action. This notice and opportunity to

verbally respond shall not substitute for the requirements of Rule 12.7.

(c) Within fifteen (15) calendar days after the action provided for by this rule, the appointing authority shall provide the employee with such facts which support the action as are then available and which will not violate any confidence between the appointing authority and the investigating, arresting and/or prosecuting authority.

(d) An action taken under this rule shall not exceed (30) thirty calendar days without the prior approval of the Director. Upon sufficient reasons provided to her by the appointing authority, the Director may allow an extension of the Administrative Leave for an additional (30) thirty calendar days.

(e) Upon completion of the investigation, the Director and the employee shall be notified in writing of the outcome of the investigation. Should the appointing authority find that cause does not exist for further action against the employee, the employee shall immediately be returned to duty. Should, however, the employee then be disciplined, and if not previously given, the employee shall then be given all notices required by Rule 12.7 and/or Rule 12.8.

(f) Notwithstanding any other provision of these Rules, an Administrative Leave Pending Investigation, Dismissal or Removal is not a disciplinary action and may not be appealed to the Commission, except on the basis of discrimination or a violation of the Article or these Rules.

(g) The appointing authority may, within their discretion, require an employee placed on Administrative Leave under this rule to immediately surrender his commission card, badge, weapon (s) and all department issued equipment.

## **12.5 Suspension or Administrative Leave Pending Criminal Proceedings**

(a) Upon the arrest or indictment of, or the issuance of a criminal summons to an employee, at the request of the appointing authority, the Commission may allow the suspension of the employee during the pendency of the criminal proceedings. This suspension may be for such duration and under such conditions as the Commission may allow.

(b) In such cases, the request of the appointing authority shall contain all the details required by Rule 12.8 as are then available to the appointing authority and which will not violate any confidence between the appointing authority and

the investigating, arresting and/or prosecuting authority. Such request shall be furnished to the employee at or prior to the time it is furnished to the Commission.

(c) Prior to approving a suspension under this rule, the Commission shall allow the employee or his attorney a reasonable opportunity to appear before the Commission and respond.

(d) At the time it considers such request, the Commission may decline the request for the suspension and, instead, place the employee on Administrative Leave with pay during the pendency of the criminal proceedings. Should the Commission do so, such action shall not be appealable to the Commission, except on the basis of discrimination or a violation of the Article or these Rules.

## **12.6 Non-disciplinary Removals**

(a) An employee may be removed under the following conditions:

1. When he or she holds more than one position in the state service and the multiple employment causes an employing agency to be liable for overtime payments under the Fair Labor Standards Act and, after having been provided an opportunity to do so, the employee has refused to resign from one of the positions; or

2. When the reason for the dismissal is not the employee's fault or conduct, or when the employee fails to obtain or loses, as a result of conduct that was not work related, a license, commission, certificate or other accreditation that is legally required for his job.

(b) An employee removed under this rule shall be furnished with the same notice required for dismissals under Rule 12.8, and he or she shall have the same right to appeal such as if it were a disciplinary dismissal.

(c) When an employee is removed under this rule, the appointing authority shall designate the dismissal as non-disciplinary on all forms used to report such dismissal, and the adverse consequence of Rules 6.5(c), 7.5(a)4, 8.9(c), 7.24(a), 8.18(d), 11.18(b), and 17.24 shall not apply.

## **12.7 Pre-dismissal, Removal Or Discipline Procedure**

(a) A permanent employee may not be dismissed or removed or subjected to any discipline, other than a letter of reprimand until he has been given written notice of the proposed action

and the reasons therefor, a description of the evidence supporting the proposed action and a reasonable opportunity to respond thereto.

(b) In the case of a suspension pending the outcome of criminal proceedings, the notice provided to the employee under the provisions of Rule 12.5(b) shall satisfy the requirements of paragraph (a) of this rule.

#### 12.8 Written Notice.

(a) Except as provided by Rule 12.5, a permanent employee who is disciplined shall be given prior written notice of the action which:

1. States the action which is being taken and the effective date and time thereof;

2. Contains such information as will fully inform the employee of the conduct on which the action is based and which will enable him or her to prepare a defense, including, where pertinent, the date, time and place of such conduct and the names of persons directly involved in or affected by such conduct (unless their identities are protected by law, in which case, identification shall be made as permitted by law);

3. Contains the following notification: "You have the right to appeal this action to the State Police Commission. The time limits and procedure for appealing are contained in Chapter 13 of the State Police Commission Rules."; and

4. Advises the employee that a copy of Chapter 13 of the State Police Commission Rules can be obtained from the State Police Commission and provides the Commission's current mailing address and telephone and fax numbers.

(b) Written notice is considered given:

1. Upon delivery to the employee or a person of suitable age and discretion who resides with the employee; or

2. On the 7th calendar day after it is mailed to the employee, with correct postage, at the most recent address furnished by the employee in writing to the Human Resources Office.

#### **12.9 Letters Of Counseling and/or Warning; Responses**

(a) A letter of counseling or warning is not a disciplinary action. Such letters may be maintained in a supervisory or investigatory file, however, they shall not be included in any record which is accessible to the public. Such a letter is not

appealable to the Commission except on the basis of discrimination or a violation of the Article or these Rules.

(b) The employee may submit a written response to any letter of counseling or warning issued to him or her, and such response shall be attached to each copy of the letter of counseling or warning that is maintained by the employing agency.

#### **12.10 Removal Of Sick Or Disabled Employees**

(a) Upon exhaustion of their sick leave and upon their request, an employee absent from duty because of a physical and/or mental disability or condition which prevents performance of the usual duties shall thereafter be placed on any type of paid leave then available to them and, upon the exhaustion of such paid leave, the employee shall then be placed on unpaid leave. The period of leave provided for by this rule shall be until the exhaustion of the employee's sick leave or the leave provided for by the Family Medical Leave Act (FMLA) or one(1) year, whichever is longer.

(b) After such employee has been absent from duty because of such physical and/or mental disability or condition for the period provided for by Rule 12.10(a), and the employee has exhausted all of his or her sick leave or leave available under FMLA and the employee's job must be performed without further interruption, the appointing authority, may, for these reasons, remove such employee. Such removal shall not disqualify the former employee from non-competitive reemployment, as provided for by Rule 8.18.

(c) Notice of the removal of an employee under the provisions of sub- section (b) shall be given pursuant to the provisions of Rule 12.8.

(d) An employee removed under this rule shall have a right of appeal only based upon discrimination and/or the violation of the Article or these Rules.

#### **12.11 Resignations**

(a) Upon the termination of the services of a permanent or probationary employee by voluntary resignation, the appointing authority shall request that the employee submit a letter of resignation or complete other appropriate agency "exit" forms. Where it is not possible to secure the letter or form, the appointing authority shall prepare and maintain a written explanation of the reason(s) for the resignation, if known, and the reason that a letter of resignation or exit form was not obtained.

(b) The resignation of an employee, submitted orally or in writing, shall become an accomplished fact upon:

1. Its acceptance by the appointing authority or his or her designee, notwithstanding that it may include a prospective effective date; or
2. The occurrence of the effective date and time specified by him in his statement of intention to resign.

(c) When signed by the appointing authority or his or her designee, a personnel status change form which reports to the Director the resignation of an employee shall constitute one type of acceptance of the resignation.

(d) An employee may not rescind or withdraw his resignation subsequent to:

1. Its acceptance by the appointing authority unless the appointing authority agrees thereto;
2. The effective date and time specified in the resignation; or
3. The terminal date and hour specified in the personnel status change form mentioned in sub-section (c) hereof.

(e) By mutual agreement between an employee and the appointing authority, an accepted resignation may be withdrawn and rescinded at any time prior to the effective date and time specified by the employee in the resignation.

(f) When an employee resigns after receiving the notice required under Rule 12.7 that his dismissal has been proposed, the SF-1 form reporting the resignation shall so indicate. At the time the SF-1 form reporting the resignation is mailed or delivered to the Director, a copy thereof shall be mailed to the employee at the last known address furnished by the employee to the Human Resources Office.

#### **12.12 Troopers Rights related to Administrative Investigations**

The statutory embodiment of the Law Enforcement Officer's Bill of Rights, as set forth at La. R.S. 40:2531, et seq., is considered an unconstitutional infringement on the Constitutional authority of this Commission and as such, it will not be applied to cases under Commission review. Members of the state police service, (hereinafter

"Louisiana State Police Troopers") who are under administrative investigation with a view to possible disciplinary action as set forth in 12.2(b) of these Rules are afforded certain minimum rights by this Commission as set forth below. These rules do not apply to criminal investigations, fleet crash, shooting review or equal employment investigations. Criminal, fleet crash, shooting review or equal employment investigations, drug/alcohol screening, fitness for duty evaluations and requests for incident reports are not considered administrative investigations, nor are these rules considered applicable to those preliminary investigatory actions.

#### **Rule 12.13 Notice**

The Louisiana State Police Trooper being investigated shall be informed, within fourteen (14) calendar days of the start of the investigation (as set forth in Rule 12.18 below), that Trooper is under investigation, including the date(s) of the alleged offense and the substance of the factual allegations being made against the Trooper. Further, at the start of any interrogation, Trooper shall be informed of identity and authority of the person conducting such investigation, and at the commencement of any interrogation, such officer shall be informed as to the identity of all persons present during such interrogation. The Louisiana State Trooper shall, upon request, be provided a copy of any written complaint after his/her interrogation if a written complaint has been made against the Trooper. The Louisiana State Trooper shall be allowed to make notes.

#### **Rule 12.14 Conditions**

Any interrogation of Louisiana State Police Trooper in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of such Louisiana State Police Trooper.

#### **Rule 12.15 Recording of Interviews**

All interrogations of any Louisiana State Police Trooper in connection with the administrative investigation shall be recorded in full. The Louisiana State Police Trooper shall be provided a copy of the recording or transcript, if the recording is transcribed, of the recording of his/her statements upon his/her written request.

#### **Rule 12.16 Right to Counsel**

(a) The Louisiana State Police Trooper being questioned, whether as a target or as a witness in an administrative investigation, shall have the right to be represented by counsel, a representative of his/her choosing.

(b) The Louisiana State Police Trooper shall be granted up to fifteen (15) calendar days to secure such representation, during which time all questioning of the trooper shall be suspended.

(c) The Louisiana State Police Trooper's representative or counsel shall not disrupt or interfere with the interview or interrogation. The Louisiana State Police Trooper's representative or counsel may not instruct the Trooper how to testify but may confer with the Trooper as necessary throughout the interrogation and make statements on the record.

#### **Rule 12.17 Statements inadmissible at criminal proceeding**

No statement made by the Louisiana State Police Trooper during the course of an administrative investigation shall be admissible in a criminal proceeding against him/her and he/she shall be so advised at the beginning of the interview or interrogation.

#### **Rule 12.18 Time within which to initiate investigation**

(a) When a formal complaint is made against any Louisiana State Police Trooper, the Appointing Authority or his designee shall cause an investigation to be initiated within fourteen (14) calendar days of the date the complaint is made.

(b) If no formal complaint is made against a Trooper but an incident justifies an investigation, the Appointing Authority or his designee shall cause an investigation to be initiated within fourteen (14) calendar days of the date that Internal Affairs, the Troop/Section Commander or anyone above the commander in the chain of command, learns of the incident.

#### **Rule 12.19 Time to complete investigation and extensions of time**

(a) Except as otherwise provided in this Rule, each investigation of a Louisiana State Police Trooper which is conducted under the provisions of this rule shall be completed within sixty days of the date the investigation was initiated.

(b) The appointing authority or his designee may petition the State Police Commission, or its Executive Director, for



an extension of the time within which to complete the investigation. The executive Director shall have the authority to grant up to one fifteen (15) calendar day extension without the necessity of a hearing but the Trooper shall be notified of the request for extension of time.

(c) The State Police Commission shall have the authority to grant up to a sixty (60) day extension, in addition to that set forth in subparagraph (b) above, upon a showing of good cause at a hearing conducted by the Commission. The Commission shall set the matter for hearing and shall provide notice of the hearing to the Louisiana State Police Trooper who is under investigation. The Louisiana State Police Trooper who is under investigation shall have the right to attend the hearing and to present evidence and arguments against the extension. Any hearing conducted regarding this Rule may be conducted either by the full Commission or a referee and may be conducted in person or by telephone or other electronic means, as deemed necessary and appropriate by the Commission.

(d) Nothing contained in this Paragraph shall be construed to prohibit the Louisiana State Police Trooper under investigation and the appointing authority from entering into a written agreement extending the investigation for up to an additional sixty (60) days.

(e) The investigation shall be considered complete upon determination of the appointing authority to institute disciplinary action against the Louisiana State Trooper or a determination of an exonerated, unfounded or not-sustained complaint.

(f) Written notice shall be given to the Trooper within seven (7) calendar days from the completion of the investigation, as described in (e) above, that the investigation is complete, the findings of the investigation (Sustained, Not Sustained, Exonerated or Unfounded), the proposed discipline and that the pre-deprivation notice required by Rule 12.8 shall be given within 45 calendar days.

(g) Nothing in this paragraph shall limit an investigation of alleged criminal activity.

(h) The investigation of criminal activity may suspend the sixty (60) day period for completing the administrative investigation.

(i) If the Appointing Authority or his designee requires an extension of time within which to complete the investigation or if an extension of time is jointly requested, and the Trooper has been placed on leave pending investigation under Rule 12.4, the Trooper shall be continued on paid administrative leave pending investigation until the completion of the investigation if the Appointing Authority finds that continued leave is warranted under Rule 12.4.

#### **Rule 12.20 Penalty**

Any disciplinary action taken against the Louisiana State Trooper in violation of these Rules may be reduced, modified or reversed by the Commission, in accordance with Rule 13.20.

T/S-21	07/21/97
T/S-42- Rule 12.12	07/16/09
T/S -55 Rules 12.12, 12.13-12.20	10/09/14

**CHAPTER 13**  
**APPEALS AND HEARINGS**

**13.1 Appeals to the Commission**

An appeal may be made to this Commission by

- (a) Any person in the Classified Service who alleges that he has been discriminated against or subjected to any disciplinary action because of his political or religious beliefs, sex, or race.
- (b) Any person in the Classified Service who, having gained permanent status, alleges that he has been subjected to any disciplinary action or removal in violation of any provision of Chapter 12 of these Rules.
- (c) Any person in the Classified Service who alleges that he has been deprived of any right, discriminated against, or adversely affected by the violation of any provision of the Article or of any Rule of this Commission.
- (d) Any person in the Classified Service who shall have failed to obtain relief from an allocation or reallocation of a position to a class or by the Classification Plan or any change thereof after a written request for review thereof by the Director or his representative as provided in Rule 5.3 and who alleges that the Director's decision has been discriminatory.
- (e) Any person in the Classified Service who alleges that he has been discriminated against by the application of the Pay Plan or by the application of any change thereof.
- (f) Any person who shall have applied for or been examined, for the Classified Service, without having acquired permanent status therein, and who alleges discrimination in the review of his application, admission to an examination, scoring of examinations, the establishment of an eligible list, or certification therefrom.
- (g) By any person expressly granted the right to appeal to this Commission by the Article or by any Rule of this Commission.

- (h) Any person who alleges that he has been the subject of discrimination as defined in Chapter 1.
- (i) Any person who alleges that he has been discriminated against by any official action taken by the Director.
- (j) Any person seeking a review of a decision made by an appointing authority under the provisions of Rule 10.4.
- (k) Any person in the Classified Service who alleges that he has been demoted, dismissed, discriminated against, or subjected to any disciplinary action based solely on the grounds assigned for an unsatisfactory service rating.
- (l) Any applicant for employment in the Classified Service and any employee in the Classified Service who alleges that he has been discriminated against because of his membership or nonmembership in any private organization.
- (m) Any person in the Classified Service who alleges that he has been subjected to any layoff or layoff avoidance action in violation of any provision of Chapter 17 of these Rules.

### **13.2 Request for Appeal**

A notice of appeal must:

- (a) Be in writing; and
- (b) Be signed by the appellant, or on his behalf by an attorney duly licensed to practice law in the Courts of the State of Louisiana, or on his behalf by a senior student of law designated under the provisions of Rule 13.11(b)2; and
- (c) Give the name and mailing address of the appellant, and of his attorney or designated senior law student, if any and
- (d) Contain a clear and concise statement of the actions complained against and a clear and concise statement of the basis of the appeal. Where discrimination is alleged to be a basis for appeal, specific facts supporting the conclusion of discrimination must be alleged in detail. The specific facts required will vary depending on the nature of the appeal; however, the facts must be alleged in sufficient detail to enable the agency to prepare a defense. A conclusion

of discrimination is not sufficient. The types of facts which must be included are:

1. the date, time and place the discriminatory action took place;
2. the name of the person or agency alleged to have taken the discriminatory action;
3. a description of how appellant's action, conduct or performance was the same as that of other persons who were treated differently;
4. the names of other persons treated differently and the dates the different treatment occurred;
5. a description of events, including the dates and circumstances thereof, which led appellant to believe that the adverse decision was based on his religious or political beliefs, sex, race, or any other non merit factor.

Where a violation of the Article or a Rule is alleged to be a basis for appeal, specific facts supporting the conclusion that a violation has occurred must be alleged in sufficient detail to enable the agency to prepare a defense.

- (e) Give the date on which the action appealed from occurred, or that the appellant learned thereof; and
- (f) State the date that the appellant received written notice of the action complained against, if written notice was given; and
- (g) State the relief the appellant seeks.

### **13.3 Delay for Making Appeal**

- (a) No appeal shall be effective unless a written notice complying with the requirements of Rule 13.2 is either (i) received in the office of the Director of the State Police Commission (located at 7979 Independence Blvd, Suite 208, Baton Rouge, Louisiana 70806), or is addressed to the Director of the State Police Commission at Post Office Box 66555, Baton Rouge, Louisiana 70896-6555, with proper postage affixed, and is dated by the United States Post Office:

1. Within thirty (30) calendar days after the date on which appellant received written notice of the action on which the appeal is based when written notice before or after the action is required by these Rules; or
  2. Within thirty (30) calendar days after the date when appellant learned or was aware that the action complained of had occurred when no written notice is required by these Rules or, if required, was given tardily or not at all.
- (b) Legal holidays and days on which the office of the State Police Commission is closed shall not serve to extend the delay period specified in Subsection (a) hereof.
- (c) No appeal shall lie against any action following the expiration of three hundred sixty five (365) calendar days from the date on which it occurred.
- (d) Except in the case of an appeal which is subject to being dismissed as defective, no appeal shall be supplemented or amended following the expiration of the delay period provided by Sub-section (a) hereof.

In the case of an appeal which is subject to being dismissed as defective, the appeal may be supplemented or amended only once after the delay period provided by Sub-section (a) hereof.

Upon notice to the parties that an appeal is subject to being dismissed as defective, the Commission or the Referee shall set the time in which the appeal may be supplemented or amended. To be considered, a supplement or amendment or an appeal must be received by or mailed to the Director within the time fixed. The receipt or mailing of the supplemented or amended appeal shall be the same as provided for the original appeal in Sub-sections (a) and (e) hereof. When requested by the appellant within the original time fixed for filing the supplemented or amended appeal, for good cause shown, the Commission or the Referee may extend the period in which the supplemented or amended appeal may be filed.

An appeal, which is supplemented or amended under the provisions hereof, may thereafter be summarily disposed of pursuant to the provisions of Rule 13.5.

- (e) Proof of the timeliness of mailing a request for appeal shall be shown only by a legible official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. In the event that the postmark is absent or illegible, the date that the request is received in the Director's office shall determine whether the appeal was timely filed.

**13.4 The Director shall cause the date of filing to be noted of each notice of appeal.** An appeals docket shall be maintained upon which each appeal shall be docketed in the order filed, be numbered consecutively, and be given an appropriate title. Promptly after docketing the authority or person against whose action the appeal is directed shall be notified of the appeal.

#### **13.5 Summary Disposition of Appeal**

- (a) Whether on motion of a party or on its own motion, the Commission may summarily dispose of an appeal on the following grounds or in accordance with the provisions of Rule 13.11(e);
  - 1. That the Commission lacks jurisdiction of the subject matter, or of the person against whom relief is sought.
  - 2. That the appellant has no legal right to appeal.
  - 3. That the appeal has not been made in the required manner or within the prescribed period of delay.
  - 4. That the appeal has become moot.
  - 5. That an appellant has failed to appear at the time fixed for the hearing of his appeal, without having been granted a continuance.
  - 6. That the written notice expressing the cause for the action complained against is insufficient; or, that the cause as expressed does not constitute legal ground for the disciplinary action.

7. That the disciplinary action was not taken by the proper appointing authority.
  8. That, after resting its case in chief, the appointing authority has failed to establish by a preponderance the cause for the disciplinary action or the appellant has failed to establish by a preponderance his/her claim of discrimination and/or the violation of a rule.
- (b) Every written request for summary disposition shall contain a certificate, signed by the person filling such, which shall state that the request has been served by certified mail on the adverse party and the date of such service.
  - (c) A Referee, on the motion or a party on his or her own motion, may at any time summarily dispose of any preliminary or interlocutory issue, claim or request.
  - (d) Prior to the final disposition of an appeal, any determination on a request for any relief by a party may be reconsidered by the Commission or a Referee.
  - (e) When the Commission summarily disposes of an appeal, its decision shall be final and appealable on the date it files with the Director its written decision thereon.
  - (f) Repealed effective December 18, 1995

### **13.6 Assigning Appeals for Hearing**

- (a) The Director shall assign appeals for hearing by the Commission or a Referee, and the Director shall fix the date, time and place for the hearing and give notice thereof in accordance with these rules.
- (b) As far as practicable, or otherwise for good cause, appeals shall be fixed for hearing in docket number order.

### **13.7 Place of Hearing**

- (a) Subject to the provisions of Subsection (b) hereof all appeals before the Commission shall be heard in a convenient place, accessible to the public, in the City of Baton Rouge, Louisiana, selected by the Director.



- (b) If the Commission or the Director deems that the interest of the State or of any agency thereof, or the location of the parties or witnesses, or the ends of justice so require, he may order that hearings before the Commission be held in any other convenient place of public accessibility within the State other than the City of Baton Rouge, Louisiana.
- (c) All appeals before a referee shall be heard in a convenient place, accessible to the public, selected by the Director.

### **13.8 Notice of Hearing of Appeals**

- (a) Notice of the time and place fixed for the hearing shall be mailed to the appellant and to the appointing authority against whose action the appeal has been taken at least thirty (30) calendar days prior to the date of the hearing;
- (b) With the approval of the Commission, the Director, or the appropriate referee, and by consent of all interested parties, said notice and delay may be waived.

### **13.9 Continuance of Appeal**

- (a) An appeal fixed for hearing may be continued, without prejudice to the appellant.
  - 1. By the Director, or the appropriate referee in a referred case, upon submission of justifications deemed adequate by the Director or the referee; or
  - 2. By the Commission or its Chairman, for cause deemed sufficient by it; or him; or
  - 3. If it is not reached for hearing.
- (b) With the approval of the Commission, the Director, or the appropriate referee, an appeal fixed for hearing may be continued by consent of all interested parties. If an appellant requests a continuance the Commission, may, in its discretion, deny him any compensation for that portion of time lost by reason of the continuance if his appeal be finally sustained.
- (c) No continuance shall be granted except for compelling cause or to serve the ends of justice.

- (d) An appeal fixed for hearing and not reached shall be re-fixed by preference over any appeal continued for any other reason and any appeal subsequently docketed.

### **13.10 Pre-Hearing Procedures**

- (a) In any appeal, on its or his own initiative, or on the request of a party, the Commission or the appropriate referee may order a pre-hearing conference with the parties and/or their attorneys to consider:
  - 1. The identification and/or simplification of the factual and/or legal issues;
  - 2. What material facts are or are not in substantial dispute, and stipulations which might be entered into by the parties;
  - 3. The limitation of the number of witnesses, including expert or cumulative fact witnesses;
  - 4. Documentary or other exhibits which may be used and/or offered at the hearing; or
  - 5. Such other matters as may aid in the hearing or disposition of the appeal.
- (b) At the discretion of the Commission or the appropriate referee, the pre-hearing conference referred to in Section (a) above may be held in person or by telephone.
- (c) In any appeal, whether before or after a pre-hearing conference, on its or his own initiative, or on the written request of a party made in conformity with the requirements of State Police Commission Rule 13.13(d), the Commission or the appropriate referee may order the parties and/or their attorneys, in the manner and within the time ordered, to produce, exchange copies of and/or allow inspection of documents or other tangible things.
- (d) As soon as practicable after a pre-hearing conference, the Commission or the appropriate referee shall render an order which recites:
  - 1. The action taken at the pre-hearing conference;

2. The agreements made by the parties as to any of the matters considered; or
  3. The orders made with regard to the production, exchange and/or inspection of documents, tangible things or other exhibits.
- (e) The order issued by the Commission or the appropriate referee pursuant to Section (d) above shall control subsequent proceedings, including the hearing, unless modified by the Commission or the appropriate referee to prevent injustice.
- (f) After ordered by the Commission or the appropriate referee, a party or his attorney who fails, without good cause, to produce, exchange copies of and/or allow inspection of any document or other tangible things shall, unless necessary to prevent injustice, be prohibited from using or offering such document or tangible things at the hearing or otherwise.
- (g) Failure of a party or attorney, without good cause, to appear at or participate in a pre-hearing conference ordered by the Commission or the appropriate referee shall be a contempt of the Commission and may be punished by the Commission as such. Additionally, within the discretion of the Commission or the appropriate referee, such failure may cause the continuance of a hearing, and if the failure is attributable to him, the denial to appellant of back pay or other benefits during the period after the failure and prior to the hearing of the appeal.

### **13.11 Procedure for Hearing Appeals**

- (a) All hearings shall be open to the public.
- (b) Parties shall have the right, but shall not be required, to be represented by counsel. Any such counsel must be
1. Duly licensed to practice law in the State of Louisiana; or
  2. A senior student of law attending a university in the State of Louisiana who has been recommended by the President of his university specifically for the purpose of representing individuals who have been certified as indigent for the purposes of this Chapter.

The Director shall establish the procedure by which an appellant shall be certified as indigent for the purposes of this Chapter.

When any party is represented by more than one counsel, as described in this Rule, in any hearing before the Commission, or a referee, only one such counsel for any party shall be permitted to examine the same witness.

- (c) Subject to the provisions of Subsection (r) of this Rule, the burden of proof as to the facts shall be on the appointing authority and the Commission or the referee may, in its or his discretion, require him to open the case.
- (d) Where appropriate and not inconsistent with these Rules, the rules of evidence applicable to civil trials in the district courts of the State shall be observed in all hearings before a referee or the Commission.
  - 1. The Commission or the referee may require the appellant to give his sworn testimony before hearing any other evidence and, if at the conclusion of the appellants testimony, the Commission finds that the appeal is not supported by any just or legal ground, the Commission may decline to hear or consider any other evidence and thereafter take appropriate action with regard to the final disposition of such appeal.
- (f) If after hearing appellant's testimony the Commission or the referee is of the opinion that he may have just or legal grounds for his appeal, it or he shall permit him to adduce such other evidence, testimonial or otherwise, as may be relevant.
- (g) Affidavits and other ex parte statements shall not be received in evidence without the consent of all parties, except to refresh memory or to discredit a witness.
- (h) Parties and witnesses shall be subject to cross examination as in civil trials before the courts of the State, and the Commission, each member of the Commission, or referee may examine and cross examine any witness.
- (i) The Commission or the referee may require that the parties stipulate all undisputed facts.

- (j) The Commission or the referee may limit corroborative evidence.
- (k) Where appropriate and not inconsistent with these Rules, hearings and the taking of testimony shall be conducted according to the accepted practice in civil trials before the district courts of the State.
- (l) The Commission or the Referee may receive stipulations of undisputed facts from the parties. In the absence of the offering of such, the Commission or the Referee may state for the record such facts which the Commission or the Referee find to be undisputed and, subject to appropriate review, such will be deemed to be proven. Thereafter, the Commission or the Referee may refuse to receive further evidence thereon.
- (m) Subject to the provisions of Subsections (r) and (s), the facts expressed in writing by the appointing authority as cause for disciplinary action shall not be accepted as prima facie true. Evidence shall not be received to supplement or enlarge the expressed cause. The appellant may offer proof to rebut any proof offered by the appointing authority in support of the expressed cause for the disciplinary action.
- (n) Upon the request of any party, or on its or his or her own motion, the Commission or the Referee may order the sequestration of witnesses.
- (o) The Commission, or a referee, may fix the total time to be allowed for oral argument, according to the circumstances of each case, and may limit oral argument to one or more issues. Except with special leave of the Commission, or referee, only one attorney shall be permitted to present oral argument for any party.

The Commission or the referee may in any case on its or his own motion invite or allow any member or members of the Louisiana State Bar Association to present oral or written argument on any question of law, provided such oral argument is presented at a hearing when all parties are present, or represented, or that a copy of all written arguments be served on all parties, or their counsel, if any. Service of such written argument shall be made to appear by the certificate of the writer.

- (p) The Commission or a referee may take notice of the provisions of the Article, the Rules, the Classification Plan, and the Pay Plan without the necessity of an offer in evidence.
- (q) When during the course of a hearing a ruling by the Commission is to be made, the presiding Commissioner shall rule and his ruling shall constitute that of the Commission; provided, that should a member of the Commission object to such ruling or offer an alternative ruling, the ruling of the Commission shall be determined by majority vote of those members present.
- (r) Subject to the provisions of Subsections (m) and (s), when a classified employee alleges that he has been discriminated against because of his political or religious beliefs, sex, or race, the facts expressed in writing by the appointing authority as cause for the demotion, suspension, dismissal, or other action, shall be accepted as prima facie true. Evidence shall not be received from an appointing authority to supplement or enlarge the facts as so expressed. The appointing authority may rebut any proof offered by the appellant employee in contradiction of the facts expressed in writing by the appointing authority. The burden of proof as to the facts shall be on the appellant and the Commission or a referee may, in its or his discretion, require him to open the case.
- (s) In combination appeals, where the appellant denies the verity or severity of a portion or all of the charges set forth in writing and where he alleges discrimination with respect to all or a portion of the charges:
  - 1. As to that portion of the facts set forth in writing, the verity or severity of which is denied by the appellant, the burden of proof shall rest upon the appointing authority.
  - 2. As to that portion of the appeal in which the appellant alleges discrimination, the burden of proof shall rest upon the appellant.
- (t) Authentic acts delegating appointing authority or certified copies thereof may be offered into evidence without further proof and shall be accepted as prima facie proof of the recitals contained therein.

- (u) When a violation of Section 8(A) of the Article or a Rule in Chapter 12 is the basis for appeal, the burden of proof, as to the facts, shall be on the appointing authority. When a violation of any other Section of the Article or any other Rule is the basis for appeal, the burden of proof, as to the facts, shall be on the employee.

### **13.12 Referees**

- (a) The Commission may appoint a referee to manage an appeal, to hear and decide preliminary and interlocutory issues, claims and/or requests and to hold a hearing and take testimony in an appeal.
- (b) A referee shall have subpoena power and power to administer oaths as well as the powers granted in this Chapter.
- (c) After hearing an appeal, a Referee shall prepare written findings of fact and conclusions of law, which shall be submitted as a recommendation to the Commission.

### **13.13 Subpoena of Witnesses; Production of Documents**

- (a) The Commission, each member thereof, the Director, the Deputy Director, any referee appointed by the Commission, and any specially designated agent of the Commission shall have the power to order the appearance of witnesses and compel the production of books and papers pertinent to the issues involved in any appeal, provided such witnesses and such books and papers are within the State.
- (b) For all hearings conducted, no subpoena will be issued unless a written request for the issuance of subpoenas is received in the office of the Director of the State Police Commission no later than fifteen (15) calendar days before the date fixed for the hearing. The request for subpoenas shall contain the names of the witnesses, the street addresses at which the witnesses can be served, and a brief statement of what is intended to be proved by each witness.
- (c) In lieu of the issuance and service of formal subpoenas to State employees, the Commission or any person authorized by Subsection (a) of this Rule may request any appointing authority to order any

designated employee under his supervision to attend and testify at any hearing, and upon being so ordered the employee shall appear at the hearing and furnish testimony.

- (d) For all hearings conducted, no subpoena for the production of books, papers, or other items will be issued unless a written request for the issuance of subpoenas is received in the office of the Director of the State Police Commission no later than fifteen (15) calendar days before the date fixed for the hearing. The request for a subpoena for books, papers or other items shall contain a description of the items to be produced in sufficient detail for identification and shall contain the name and street address of the person who is to be required to produce the items and a brief statement of what is intended to be proved by each item.
- (e) No subpoena will be issued unless the request therefor complies with this Rule and the person authorized to issue the subpoena is satisfied that the testimony of the witness or the production of the books, papers, or other items is relevant to the issues before the Commission.
- (f) Authentic copies of books, papers, photographs, or other items in the custody of any department, board, or agency of the State or any subdivision thereof which have been subpoenaed may be admitted in evidence with the same effect as the originals, but if the original books, papers, photographs, or other items are subpoenaed they must be produced and made available for inspection even though authentic copies may be subsequently introduced.
- (g) The Commission, its Chairman, or the Director, or a referee, for cause deemed sufficient, may issue an appropriate order at any time recalling any subpoena, subpoena duces tecum, or request issued under the provisions of this Rule.
- (h) The abuse of the privilege to require the attendance of witnesses or the production of books, papers, photographs, or other items shall be deemed a violation of these Rules and shall be dealt with accordingly.
- (I) All subpoenas shall be issued only for the specific hearing for which they are requested. Subpoenas



previously issued shall not be reissued, except upon another request from a party, which is in compliance with the provisions of this rule.

#### **13.14 Dismissal for Nonappearance at Hearing of Appeal**

- (a) If, without good cause or excuse, neither a party nor his or her counsel appears at the time and place fixed for hearing, the Commission, on its own or on the recommendation of a Referee appointed to hear the appeal, may summarily dispose of the appeal, including dismissing or granting the appeal or other appropriate action.
- (b) Subject to the Commission's discretion to continue a hearing, if an appellant or the chosen representative of the appointing authority fails, without good cause or excuse, to appear at the time and place fixed for hearing, but that party's counsel is present, that party shall be deemed to have waived his presence or the presence of his representative.
- (c) If either the appellee or the appellant fails to appear at the place and time fixed for any hearing, but counsel for the absent party is present, the absent party shall be deemed to have waived his appearance and the hearing shall proceed and testimony may be taken in the absence of the party with the same effect as if the party were present.
- (d) Nothing in this Rule shall prevent the Commission or a referee from continuing the appeal if it or he learns the reason for the absence of the party and his attorney and determines that the party and his attorney were absent due to circumstances beyond their control.

#### **13.15 Consolidation**

When two or more appeals involve similar or related circumstances, the Commission may order a joint hearing of any or all the matters at issue in the appeals, or may order that all such appeals be consolidated.

#### **13.16 Transcripts of Proceedings of Appeals to the Commission**

- (a) The proceedings of all appeal hearings before the Commission or a referee shall be recorded, but shall be transcribed only upon order of the Commission or the Director and upon payment by the person requesting the transcript of such cost as may be determined by the Director.

- (b) When an appeal is taken from any final decision of the Commission, it or the Director may require the party appealing to reimburse the State Police Commission for the cost of preparing transcripts of proceedings.
- (c) Whenever any portion of the Commission's Rules, Classification Plan, or Pay Plan is relied upon in an appeal to the Court of Appeal and is material to the decision of any issue, the portion relied upon shall be copied into the transcript prepared for the Court of Appeal, First Circuit, if not contained in the Commission's written opinion.

### **13.17 Refusal to Appear; Refusal to Testify; False Testimony**

- (a) Any officer or employee in the classified service who willfully refuses or fails to appear before the Commission or its Referee in response to a subpoena or a request under the provisions of Rule 13.13, or having appeared refuses to testify or answer any question pertinent to the matters under consideration or who knowingly gives false testimony or who knowingly solicits, condones, or accepts, without refutation, false, or misleading testimony given by any witness in his/her behalf at a hearing, or who fails to produce any books, papers, photographs, or other items pertinent to any hearing may be found by the Commission or the Referee to be guilty of contempt in accordance with these Rules and, in addition to that which is provided for in these Rules, may be found by the Commission to have forfeited his office or position and may be found by the Commission not to be eligible thereafter for appointment to any position in the classified service for a period not to exceed ten years or be subject to a suspension from his position.
- (b) Any person who willfully fails to appear in response to a subpoena or to an order issued under the provisions of Rule 13.13 hereof, or who willfully fails to answer any questions or to produce any books, papers, photographs, or other items pertinent to any hearing before the Commission or a Referee, or who knowingly gives false testimony or who knowingly solicits, condones, or accepts, without refutation, false, or misleading testimony given by any witness in his/her behalf at any such hearing may be found guilty of contempt by the Commission or the Referee in accordance with these Rules.

- (c) Any officer or employee required to testify shall not be subjected to any disciplinary action by his appointing authority because he so testifies

### **13.18 Costs of Appeals**

The Commission or the referee may, in its or his discretion, order the costs of any hearing or appeal, or any portion of such costs, including the costs of recording and transcribing testimony to be paid by or charged to either or both interested parties.

### **13.19 Witness Fees**

- (a) The travel expenses of an officer or employee other than the appellant who is required to appear before the Commission or a referee in the hearing of an appeal shall be paid by the department which employs him.
- (b) The Commission or the referee may order that any person who is not an officer or employee of a department and who is subpoenaed to testify at a hearing shall be entitled to the same mileage and fees as are allowed witnesses in civil cases by the Nineteenth Judicial Court for the Parish of East Baton Rouge.
- (c) Witness fees and travel expenses may be taxed to either party, in the Commission's discretion.
- (d) The Commission and any person authorized to issue a subpoena may before doing so, require the party requesting a subpoena of one other than an officer or employee of a department to deposit with the Director a sum sufficient to cover the mileage and witness fees pending a determination of costs by the Commission.

### **13.20 Commission Action on Appeal**

- (a) After hearing of an appeal, the Commission shall make a written decision containing its findings of facts and conclusions, which shall be filed with the Director. The decision of the Commission shall be final on the day that it is filed with the Director.
- (b) On the same date that the decision is filed with the Director, the Director shall mail to all interested parties a copy of the decision.

- (c) If the Commission after any hearing orders dismissed or suspended employee reinstated, it may reinstate such employee under such conditions as it deems proper and subject to Rule 13.9 may order full pay for lost time.

#### **13.21 Interlocutory Rulings**

- (a) Formal exceptions to the interlocutory rulings or orders of the Commission, or of a referee, are unnecessary. At the time the ruling is made or the order is communicated, a party shall make known his objection thereto and the grounds therefor, and same shall be noted in the record.
- (b) The Commission, or a referee, may at any time prior to a final decision, recall, reverse, or revise any interlocutory ruling or order.

#### **13.22 Amicable Settlement of Appeals**

In any appeal pending before the Commission, the parties thereto may agree to submit a proposed settlement which, if approved by the Commission, shall constitute a final disposition of the appeal.

#### **13.23 Recusation of Commission or Referee**

The grounds for recusation of a Commissioner or a Referee shall be the same as the grounds of the recusation of judges of the courts of the State of Louisiana.

#### **13.24 Interrogatories; PreTrial Discovery; Rehearing of Appeal.**

- (a) Interrogatories and pretrial discovery proceedings shall not be recognized by the Commission or a referee.
- (4) No rehearing shall be granted from a final decision of the Commission.

#### **13.25 Finality of Commission Action on Rules and Plans**

No appeal to the Commission shall lie from the adoption by the Commission, after public hearing, of a Classification Plan, a Pay Plan, or of any Rule, or of any Amendment to said Plans or Rules.

### **13.26 Attorney's Fees**

- (a) When the Commission approves a settlement, recision or modification of an action that has been appealed, or renders a decision which reverses or modifies an action that has been appealed, the appellee may be ordered to pay attorney's fees in an amount not to exceed \$1,500, unless the Commission concludes that the appointing authority has acted arbitrarily and capriciously, in which case the Commission may award reasonable attorney's fees in excess of that amount.
- (b) The Commission or a referee may allow such evidence and argument in support of the request for attorney's fees as is deemed appropriate considering the status of the appeal at the time the request for attorney's fees is filed. No attorney's fees shall be awarded unless a written request is filed before the final disposition of the appeal by the Commission.

### **13.27 Action Required Following Commissions Decision**

- (a) Following the granting of an appeal of a termination, and within fifteen (15) calendar days from the date of the mailing of the decision, the appellant shall present ready for work at the time and place of their employment as it existed prior to the termination. Appellant shall be returned by the appointing authority to the regular payroll at that time. Appellant shall at that time, or as soon thereafter as possible, present to the appointing authority satisfactory proof of all wages earned and unemployment compensation received, if any, during the period of appellant's termination.

If no wages or unemployment compensation have been so received, appellant shall present a written and signed statement to that effect to the appointing authority upon their return. Within fifteen (15) days following receipt of such information, the appointing authority shall deliver to the human resources office a request for such disbursement. The human resources office shall promptly cause such disbursement. The appointing authority shall otherwise comply with the orders contained in the decision. Further, within thirty (30) days from receipt by the appellant of the back pay due, appellant, at their sole option, may repurchase all or part of the annual leave balance they held at the time of termination, the value of which was paid at the time of termination, pursuant to Rule 11.10(a). All of the above shall apply unless otherwise stayed by a court of competent jurisdiction.

- (b) Following the granting of the appeal of a suspension, demotion or reduction in pay, and within fifteen (15) calendar days from the date of the mailing of the copy of the decision to all parties or as soon thereafter as possible, the appellant shall present to the appointing authority satisfactory proof of all wages earned and unemployment compensation received, if any, during the period of suspension. If no wages or unemployment compensation have been received, appellant shall present to the appointing authority a signed statement to that effect. Within fifteen (15) days from receipt of such proof of written statement, the appointing authority shall deliver to the human resources office a request for such disbursement. The human resources office shall promptly cause such disbursement. The appointing authority shall otherwise comply with the orders contained in the decision.
- (c) In the event all or part of the decision granting an appeal is stayed by a court of competent jurisdiction, the time limits specified herein shall begin to run upon the date the decision of the judiciary in the case presented to it becomes final.

### **13.28 Mediation**

- (1) The Commission, or a referee, may direct the attorneys and the parties in an appeal to participate in medication to attempt to resolve the appeal before a hearing.
- (2) Any member of the Commission or the Referee may conduct the medication.
- (3) The Mediators role is to facilitate communication among the parties at the mediation. The mediator will not later influence, participate in, or make any decision on any issue in the appeal. The Mediator will not issue any orders or sanctions pertaining to the mediation of the appeal.
- (4) Before the mediation, the attorneys must confer with their clients about the clients goals and expectations from settlement. The attorneys and every person whose authority is necessary for settlement must appear at the mediation (or, at the discretion of the Mediator, available by telephone), on time and prepare to negotiate.

- (7) The Commission, or a referee, presiding over the appeal may order the attorneys and/or the parties to bring to, or exchange before the mediation, a witness and exhibit list, relevant documents and/or exhibits, a proposed settlement offer, and anything else that will aid in resolving the appeal.
- (8) The mediation will not be open to the public and will remain confidential.
- (9) If anyone fails to comply with an order pertaining to the mediation, the Commission, or a referee, presiding over the appeal may order appropriate sanctions. Those sanctions may include punishing for contempt, dismissing the appeal or portions of it, reversing the action appealed or portions of it, and assessing costs and attorneys fees against the noncompliant person.

**Chapter 14**  
**Required or Prohibited Activities**

**14.1 Every classified member of the State Police Service shall:**

- (a) Assist the State Police Commission and/or its Director in effectively carrying out the provisions of the Article and Rules; and
- (b) Answer truthfully, whether under oath or otherwise, all proper questions put to him or her by authorized representatives of the State Police Commission and/or its Director.

**14.2 Prohibited Political Activity**

- (a) Except as provided in subsection (b) (below), no member of the State Police Commission and no classified member of the State Police Service shall:
  - (1) Participate or engage in political activity, including, but not limited to, any effort to support or oppose the election of a candidate for political office or support or oppose a particular political party in an election;
  - (2) Be a candidate for nomination or election to public office;
  - (3) Be a member of any national, state, or local committee of a political party or faction;
  - (4) Make or solicit contributions for any political purpose, party, faction, or candidate;
  - (5) Use or attempt to use his position to influence, punish or coerce the political action of any person, including a classified member of the State Police Service;
  - (6) Take active part in the management of the affairs of a political party, faction, candidate, or any political campaign;
  - (7) Take active part in an effort to recall from office an elected public official, or seek, solicit or attempt to influence or coerce any person, including a classified member of the State Police Service or of the State Police Commission, into participating in any such



effort or attempt to influence or coerce any person into signing a recall petition; or

- (8) Directly or indirectly, pay or promise to pay any assessment, subscription, or contribution for any political party, faction or candidate, nor solicit or take part in soliciting any such assessment, subscription or contribution, and no person shall solicit any such assessment, subscription or contribution of any classified employee in the State Police Service.

(b) Prohibited political activity shall not include:

- (1) Seeking election as the classified state police officer serving on the State Police Commission;
- (2) Activity in support of or opposition to the election of the state police officer serving on the State Police Commission;
- (3) The exercise as a citizen of the expression of an opinion privately;
- (4) Serving as a commissioner or official watcher at the polls for any state or federal election;
- (5) Casting a vote in any local, state or federal election;
- (6) Except as provided in subsection (a) (7) (above), activity in support of or opposition to any referendum, including a tax referenda, amendment of the state or federal constitutions or issues involving bonded indebtedness; or
- (7) Signing a petition to recall from office an elected public official.

#### **14.3 Other Prohibited Activity**

- (a) Discrimination, as defined in Rule 1.14.1, is prohibited.
- (b) No person shall be appointed or promoted to or demoted or dismissed from any position in the classified State Police Service, or in any way

avored or discriminated against with respect to employment, because of his or her political or religious opinions or affiliations, race, sex, or membership or non-membership in any private organization.

- (c) No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or other valuable consideration for or on account of any appointment, proposed appointment, promotion or proposed promotion to or any advantage in a position in the classified State Police Service.
- (d) No appointing authority, agent, or deputy thereof, or supervisor of any employee shall, directly or indirectly, discipline, influence, coerce or take any other action against any employee in the classified State Police Service for the purpose of influencing his vote, support or other political activity in any general or primary election.
- (e) No person elected to public office shall, while serving in such elective office, be appointed to or hold any position in the classified State Police Service.
- (f) No person shall be appointed, promoted, transferred or in any way employed in or to any position in the classified State Police Service under any class title which has not been approved by the Director as appropriate to the duties to be performed.
- (g) No classified member of the State Police shall be appointed, promoted, transferred or in any way employed in or to any position which is not within the State Police Service.
- (h) No payment for personal services of any classified member of the shall be made until the Director has approved the appointment.
- (i) No person shall make any false statement, certificate, mark, rating, form or report with regard to any application, test, certification, personnel transaction, appointment or employment made under any provision of the Article or Rules of the State Police Commission, or in any manner commit or attempt to commit any fraud preventing the impartial execution of the Article or Rules.

- (j) No person or appointing authority shall, directly or indirectly, persuade, induce or coerce or attempt to persuade, induce or coerce any prospective applicant or eligible to withhold filing an application or to withdraw from competition or eligibility for positions in the classified State Police Service for the purpose of either improving or diminishing the prospects for appointment of any applicant or eligible or prospective applicant or eligible.

In addition to other penalties which may be imposed by the Commission, the Director shall cancel any and all applications or eligibilities of any person who violates the provisions of subsection (j) (above).

- (k) No action shall be taken or authorized to be taken by any person without approval of the Commission or the Director, when such approval is required by the Article or the Rules.
- (l) Unless otherwise stayed by the Commission, a court of proper jurisdiction or the provisions of the Article, Rules, laws or constitution, no person shall fail to comply with any order or directive of the Commission.

## **CHAPTER 15**

### **RECORDS AND REPORTS**

#### **15.1 Payroll and Attendance Records**

It shall be the duty of each appointing authority to install a system of payroll and attendance records. Such system or systems shall be so designated as to facilitate the maintenance of adequate personnel records and to eliminate duplication of accounting and reporting to the fullest extent practicable.

#### **15.2 Certification of Payroll and Attendance**

The appointing authority or his agent designated for this purpose shall certify on each payroll or subsidiary documents the actual rendering of service in the position, the actual number of hours of attendance on duty, and the number of hours of absence from duty. Each employee shall certify also the fact of the actual rendering service, the number of hours of absence from duty.

##### **15.2.1 Payroll Periods and Timely Issuance of Paychecks Due to Classified Employees**

- (a) An appointing authority, the Commissioner of Administration on behalf of the Uniform Payroll System, or the head of any other payroll system responsible for issuing paychecks to classified employees, shall establish weekly, biweekly, semi-monthly, or monthly payroll periods. Use of any other pay cycles must be approved by the Director.
- (b) Paychecks due to classified employees shall be issued no later than seven calendar days following the end of the applicable payroll period unless approval is obtained from the Director under conditions established by him.

#### **15.3 Personnel Action Forms**

- (a) The Director shall prescribe personnel action forms which appointing authorities shall use to report such personnel actions and status changes as he may

require. The Director shall inform the appointing authorities which personnel actions and status changes must be reported to him.

- (b) Personnel action forms approved by the Director shall constitute authorization for payment by the appointing authority of compensation of an employee at the rate specified on the appropriate form as long as he remains an employee in a pay status. The appointing authority shall furnish a copy of each such form to the employee concerned.

#### **15.4 Approval of Personnel Action Forms**

The Director shall have the discretion of not approving any form indicating appointing or employment status change to be effective more than 20 calendar days prior to receipt by him of such form.

#### **15.5 Leave Records**

Each appointing authority shall install and maintain a leave record showing, for each employee who holds a position in the Classified Service, (1) annual leave earned, used and unused, (2) sick leave earned, used and unused, and (3) any special leave with or without pay. Such record shall be documentary evidence to support and justify the certification of authorized leave of absence with pay.

#### **15.6 The Director may from time to time examine departmental payrolls and personnel records** to determine whether such records reflect the employment of any person or persons in violation of any provision of the State Police Commission Article or Rules.

#### **15.7 Actions on Violation of the Rules**

If the Director finds that any person has been appointed, transferred, non-competitively re-employed, continued, or otherwise employed in violation of any provision of the Article or Rules, he shall notify the fiscal officer of the department of such violation and take such other action as may be authorized or required by the Article or Rules.

### **15.8 Official Roster**

The Director shall establish and maintain a roster of all Classified employees of all departments in which there shall be set forth as to each employee, the class title or the position held; the salary or pay; any change in class title, pay or status, and any other necessary date.

### **15.9 Records of the State Police Commission**

- (a) The State Police Commission shall be the official depository of the records of the Department and the Commission.
- (b) Subject to the provisions of Sub-section (c) hereof, all records so deposited shall be public records and their inspection, availability and regulation shall be subject and governed by the statutory provisions governing public records and documents.
- (c) The following records shall be held confidential:
  - 1. Investigation correspondence and data related to the moral character and reputation of applicants for employment or employees in the Classified service.
  - 2. Examination materials, questions, data and examination papers and records relating in any way to competitive examinations and other tests constructed, maintained, or conducted by the State Police Commission.
  - 3. Files, statements, reports, correspondence and other data in connection with and related to investigations of violations of the Article or Rules, when such inquiries are conducted by the Commission or the Director, other than that which is admitted in evidence at a public hearing.
  - 4. Files, statements, reports, correspondence and other data collected in the course of salary surveys which identify private corporations with the actual salary rates and practices of that organization; or that reveal organizational characteristics that would make the corporation easily identifiable.

5. Any decision of the Commission on an appeal or any contents thereof until the day that the decision is filed with the Director in accordance with Rule 13.28.
6. Any proposed decision of the commission on an appeal or any contents thereof prepared by a Commission member or by a referee, until the decision is filed with the Director in accordance with Rule 13.28.

#### **15.10 Modification of Personnel Actions**

- (a) Subject to the provision of Sub-section (c) of this Rule an appointing authority may, prior to the effective date thereof, rescind or modify any personnel action notified to the Director.
- (b) Subject to the provisions of Sub-section (c) of this Rule an appointing authority may, subsequent to the effective date thereof and with the approval Director, rescind or modify any personnel action notified to the Director.
- (c) No removal, demotion or reduction in pay of a permanent employee may be rescinded or modified without approval of the Commission or a Referee nor may any disciplinary action which is the subject of an appeal be rescinded or modified without approval of the Commission or a Referee.

#### **15.11 The Director may prescribe such personnel forms and procedures as may be necessary or desirable to carry out the provisions of the Article and Rules.**

## **CHAPTER 16**

### **INVESTIGATIONS**

#### **16.1 Filing of Charges**

- (a) Any person may file with the Director or the Commission written charges of a violation by any person of the Article or the Rules.
- (b) When the Director, in the exercise of the authority granted him by Rule 3.1 (1) hereof, has caused investigation to be made of reported violation of the Article or the Rules or has reason to believe that there has been violation of the Article or the Rules he may, in addition to other actions authorized by the Article or these Rules, file written charges with the Commission and present his findings to the Commission at a public hearing in a proceeding directed against the persons under investigation.

#### **16.2 Preliminary Investigations**

The Commission may instruct the Director to conduct a preliminary investigation of any suspected violation by any person of the provisions of the Article or these Rules, to collect evidence in connection therewith, and to report thereon to the Commission.

#### **16.3 Initiation of Investigations**

- (a) The Commission may at any time, upon its own initiative, investigate any suspected violation by any person of the Article or the Rules.
- (b) Within six months following the filing of written charges with the Director or the Commission by any person of a violation of the Article or the Rules allegedly committed by any person within the preceding one year, the Commission shall investigate and hold a public hearing concerning such charges.
- (c) Within ninety days following the filing of written charges with the Commission by the Director of an alleged or suspected violation by any person of the Article or Rules, the Commission shall investigate and hold a public hearing concerning such charges.
- (d) The Commission may investigate any written charge of a violation by any person of the Article of Rules filed with it more than one year after the alleged violation.



#### **16.4 Designation of a Respondent in an Investigation**

- (a) Any person under investigation as a result of charges filed with the Commission shall be a respondent.
- (b) The Commission may at any time before, during, or after an investigation by public hearing, declare any person to be a respondent if it has reasonable cause to suspect such person has or may have violated the Article of the Rules. The Commission's declaration shall specify whether such person shall be a respondent in the investigation in progress or in a subsequent investigation.

#### **16.5 Rights of Respondent**

Each respondent in a public hearing held under the provisions of this Chapter shall have:

- (a) The right, but shall not be required, to be represented by counsel. Any such counsel must be:
  - 1. Duly licensed to practice law in the State of Louisiana; or
  - 2. A Senior student of law attending a university in the State of Louisiana who has been recommended by the President of his university specifically for the purpose of representing individuals who have been certified as indigent for the purposes of this Chapter.

The Director shall establish the procedure by which an individual shall be certified as indigent for the purposes of this Chapter.

When a respondent is represented by one or more counsel, as described in this Rule, in any hearing before the Commission, or a referee, only one such counsel shall be permitted to examine the same witness.

- (b) Access to procedures afforded to appellants under these Rules requiring the compulsory appearance of witnesses and production of records within the State.
- (c) The right to introduce admissible evidence in his own behalf.

- (d) The right to examine and cross examine witnesses at the public hearing.
- (e) The right to object to the introduction of hearsay testimony and other evidence not admissible under the rules of evidence as applied in the civil trials before the district Courts of the State.

#### **16.6 Docketing of Investigative Hearings**

- (a) The Director shall cause the date of filing to be noted on each document containing written charges of a violation of the Article or the Rules. A docket shall be maintained upon which each such document shall be docketed in the order filed, be numbered consecutively, and given an appropriate title.
- (b) Such docket may be in combination with the appellate docket required to be maintained by the provisions of Chapter 13 of these Rules.
- (c) Promptly after the assigning of a date for public hearing on an investigation, such respondent shall be notified by the Director of such investigation. Such notice shall contain a clear and concise statement of the matters under investigation; provided that:
  - 1. Nothing herein shall prevent the Commission at any time from enlarging upon the statement of the matters under investigation, nor shall any thing herein prevent the Commission at any time from collected evidence in connection with appropriate matters additional thereto and taking action in connection therewith; and
  - 2. Each respondent shall be notified of such additional information and afforded opportunity to reply thereto.

#### **16.7 Summary Disposition of Investigation**

- (a) At any time after the assigning of a public hearing of an investigation, any respondent may file with the Commission a written request for summary disposition thereof on any of the following grounds:
  - 1. That the Commission lacks jurisdiction of the subject matter; or of the respondent under investigation.
  - 2. That the investigation has not been initiated in

the manner prescribed by the Rules.

3. That the matter under investigation has become moot.
  4. That the charges, if true, would not constitute a violation of the Article or these Rules.
- (b) Any request for summary disposition, when made prior to the date fixed for the hearing, may be supported by admissions of fact and written argument or brief.
  - (c) When a request for summary disposition has been filed with the Commission in any proceeding, the Director may submit oral or written argument or brief in connection therewith.
  - (d) If the Commission denies the request, it may reconsider same at any time prior to the conclusions of the investigation.
  - (e) The Commission may at any time, summarily dispose of an investigation of any of the grounds, listed in Sub section (a) hereof.
  - (f) When the Commission disposes summarily of an investigation its decision shall be final on the date it files its written decision with the Director disposing of the case. The Director thereafter shall give the interested parties notice of the decision.

#### **16.8 Assigning Investigations for Public Hearing**

- (a) The Commission or the Director shall fix the time and place for the conduct of investigations by public hearing.
- (b) For cause considered justifiable by it or him the Commission, its Chairman, or the Director may upset any fixing and give the hearing a special assignment both as to the time and place.
- (c) If a referee has been appointed to take testimony in an investigation by public hearing, he or the Director shall fix the time and place for taking such testimony and may upset and refix same.

#### **16.9 Place for Investigation by Public Hearing**

- (a) Subject to the provisions of Subsection (b), (c), and (d) hereof, all investigations by public hearing

before the Commission or a referee shall be conducted in a convenient place, accessible to the public, in the City of Baton Rouge, Louisiana.

- (b) The Commission may direct that an investigation by public hearing be conducted at a place of public accessibility within the State, other than the City of Baton Rouge, Louisiana.
- (c) If the Director deems that the interest of the State or of any agency thereof, or the location of the respondents or witnesses, or the ends of justice so require, he may order that the investigation by public hearing be held in any other convenient place of public accessibility within the State other than the City of Baton Rouge, Louisiana.
- (d) When a referee has been appointed to take testimony in an investigation by public hearing, the Commission, it's Chairman, or the director shall designate the location within the State at which such testimony shall be taken.

#### **16.10 Notice of Investigation by Public Hearing**

The Director or referee shall give written notice of the time and place of the public hearing to all known respondents at least twenty calendar days prior thereto; provided, that with the approval of the Commission, the Director, or the appropriate referee, and by consent of the respondent or respondents involved, such twenty day period may be waived.

#### **16.11 Continuance of Investigation by Public Hearing**

- (a) An investigation fixed for public hearing and not reached shall be refixed by the Commission or the Director.
- (b) The Commission or its Chairman may, for cause deemed sufficient, grant or order, with respect to any one or more respondents involved, a continuance of any investigation fixed for public hearing; and it may proceed in its discretion, as to those respondents to whom no continuance was granted.

#### **16.12 Procedure of Investigation by Public Hearing**

- (a) All hearings shall be open to the public.

- (b) The Commission, each member of the Commission, and any specially designated agent of the Commission may examine and cross examine any witness or respondent.
- (c) When a pending case involves substantially the same or similar circumstances as presented in a prior appellate hearing or investigation by public hearing, the Commission, or a referee, may admit as evidence any part of the record in such previous case as the Commission, or referee, may deem relevant; provided, that in the application of this Rule no respondent shall be deprived of the right to cross examine any adverse witness.
- (d) The charges filed against a respondent shall not be accepted by the Commission as prima facie true.
- (e) The Commission shall not be limited in its authority to receive evidence which explains, supplements, refutes or enlarges upon the information contained in the charges filed with it, provided, that a respondent shall be given a fair opportunity to meet the additional evidence.
- (f) The Commission, or a referee, on request of any respondent in the investigation in progress, or on its or his own motion, may order that the witnesses in any investigation by public hearing be separated so as to preclude any witness, other than the respondents and their counsel, from hearing the testimony of any other witness.
- (g) The Commission may limit corroborative evidence.
- (h) Where appropriate and not inconsistent with these Rules, hearings and the taking of testimony shall be conducted according to the accepted practice in civil trials before the district courts of the State.
- (i) The Commission, or a referee, may fix the total time to be allowed for oral argument, according to the circumstances of each case, and may limit oral argument to one or more issues.
- (j) Except with special leave of the Commission, or referee, only one attorney shall be permitted oral argument for each respondent.

- (k) The Commission may in any case on its own motion invite or allow any member or members of the Louisiana State Bar Association to present oral or written argument on any question of law, provided such oral argument is presented at a hearing when all known respondents are present, or represented, or that a copy of all written arguments be served on all known respondents, or their counsel, if any. Service of such written argument shall be made to appear by the certificate of the writer.
- (l) The Commission may take notice of the provisions of the Article, the Rules, the Classification Plan, and the Pay Plan without the necessity of an offer in evidence.
- (m) When during the course of a hearing a ruling by the Commission is to be made, the presiding Commissioner shall rule and his ruling shall constitute that of the Commission; provided, that should a member of the Commission object to such ruling or offer an alternative ruling, the ruling of the Commission shall be determined by majority vote of those members present.

#### **16.13 Referees**

- (a) The Commission may refer the taking of testimony in any investigation by public hearing to one or more of its members, or to the Director, or to any employee of the State Police Commission.
- (b) Such referee shall proceed in accordance with, and shall have all the authority vested in referees by the Article.

#### **16.14 Subpoena of Witnesses; Production of Documents**

- (a) The Commission, each member thereof, the Director, the Assistant Director, any referee appointed by the Commission, and any specially designated agent of the Commission, shall have the power to order the appearance of witnesses and to compel the production of books and papers pertinent to the issues involved in any investigation by public hearing, provided such witnesses and such books and papers are within the State.
- (b) Any respondent desiring the issuance of a subpoena for

any witness at any investigation by public hearing must apply for it in writing. The application must be filed in the office of the Director of the State Police Commission at least ten (10) days before the date fixed for the hearing and must give the name and address of the witness to whom the subpoena is to be directed together with a brief statement of what he intends to prove by such witness.

- (c) In lieu of the issuance and service of formal subpoenas to State employees, the Commission or any person authorized by Subsection (a) of this Rule may request any department to order any designated employee under his supervision to attend and testify at any investigation by public hearing; and upon being so ordered the employee shall appear at the hearing and furnish testimony.
- (d) Any respondent desiring the production of books, papers, photographs, or other items at any investigation by public hearing must apply for an appropriate order in writing. The application must be filed in the office of the Director of the State Police Commission at least ten (10) days before the date fixed for the hearing. Such application must describe the books and papers to be produced in sufficient detail for identification, must give the full name and address of the person required to make such production, must state briefly what is intended to be proved by such books, papers, photographs, or other items; and the materiality of their production to the issues must be sworn to by the respondent or his counsel.
- (e) No subpoena for the appearance of any witness or order for the production of books, papers, photographs, or other items shall be issued unless the authorized person to whom the application is presented is satisfied that the testimony of the witness or the production of the books, papers, photographs, or other items is necessary under the issues before the Commission.
- (f) Authentic copies of books, papers, photographs, or other items in the custody of any department of the State or any subdivision thereof which have been subpoenaed may be admitted in evidence with the same effect as the original books, papers, photographs, or other items are subpoenaed they must be produced and made available for inspection even though authentic

- copies may be subsequently introduced.
- (g) The Commission, its Chairman, or the Director may, for cause deemed sufficient by it, or him, issue an appropriate order at any time recalling any subpoena, subpoena duces tecum, or request issued under the provisions of this Rule.
  - (h) The abuse of the privilege to require the attendance of witnesses or the production of books, papers, photographs, or other items shall be deemed a violation of these Rules and shall be dealt with accordingly.

#### **16.15 Transcripts of Investigation by Public Hearing**

When investigations of two or more respondents involve similar or related circumstances, the Commission may order a joint investigation of all respondents or may order separate investigations for specified respondents.

#### **16.16 Transcripts of Investigations by Public Hearing**

- (a) The proceedings of all investigations by public hearing shall be recorded, but shall be transcribed only upon order of the Commission or the Director or upon request made by a respondent therein, accompanied by proffer of such costs as may be determined by the Director.
- (b) In every investigation by public hearing, the proceedings before a referee shall be recorded and transcribed.
- (c) Whenever any portion of these Rules, the Classification Plan, or the Pay Plan is relied upon in an investigation by public hearing, and is material to the decision of any issue, the portion relied upon shall be copied into any transcript prepared for the Court of Appeal, First Circuit, if not contained in the Commission's written findings.

#### **16.17 Refusal to Appear; Refusal to Testify; False Testimony**

- (a) Any officer or employee in the classified service who willfully refuses or fails to appear before the Commission or its Referee in response to a subpoena or a request under the provisions of Rule 13.21, or having appeared refuses to testify or answer any question pertinent to the matters under consideration or who knowingly gives false testimony or who



knowingly solicits, condones, or accepts, without refutation, false, or misleading testimony given by any witness in his/her behalf at a hearing, or who fails to produce any books, papers, photographs, or other item pertinent to any hearing may be found by the Commission or the Referee to be guilty of contempt in accordance with these Rules and, in addition to that which is provided for in these Rules, may be found by the Commission not to be eligible thereafter for appointment to any position in the classified service for a period not to exceed ten years or be subject to a suspension from his position.

- (b) Any person who willfully fails to appear in response to a subpoena or to an order issued under the provisions of Rule 13.21 hereof, or who willfully fails to answer any questions or to produce any books, papers, photographs, or other items pertinent to any hearing before the Commission or a Referee, or who knowingly gives false testimony or who knowingly solicits, condones, or accepts, without refutation, false, or misleading testimony given by any witness in his/her behalf at any such hearing may be found guilty of contempt by the Commission or the Referee in accordance with these Rules.
- (c) Any officer or employee required to testify shall not be subjected to any disciplinary action by his appointing authority because he so testifies.

#### **16.18 Witness Fees in Investigations by Public Hearing**

- (a) The travel expenses of an officer or employee of a department who is required to appear before the Commission or a referee shall be paid by the department which employs him.
- (b) The Commission may order that any person who is not an officer or employee of a department and who is subpoenaed to testify at a hearing shall be entitled to the same mileage and fees as are allowed witnesses in civil cases by the Nineteenth Judicial Court for the Parish of East Baton Rouge.
- (c) If a witness is subpoenaed by a respondent, the Commission may order the cost of witness fees and mileage to be paid by such respondent.
- (d) The Commission and any person authorized to issue a subpoena may, before doing so, require the respondent

to deposit with the Director a sum sufficient to cover the mileage costs and witness fees pending a determination of costs by the Commission.

#### **16.19 Commission Action Following Investigation by Public Hearing**

The Commission shall, upon concluding its public hearing and investigation, render a decision in writing, which shall contain its findings of fact, conclusions of law, and pertinent orders and instructions; and shall file same with the Director. The decision shall be final on the day it is filed. The Director shall furnish copies to all respondents and other interested parties.

#### **16.20 Recusation of Commissioner**

In proceedings under this Chapter, the grounds for recusation of a Commissioner shall be the same as the grounds for the recusation of judges of the Courts of the State of Louisiana.

#### **16.21 Powers of Director not Restricted**

Nothing in this Chapter shall restrict the Director in making whatever investigations he may deem appropriate to the exercise of his powers and functions under the Article and the Rules.

## **CHAPTER 17**

### **LAYOFF AVOIDANCE MEASURES, LAYOFFS, AND EMPLOYMENT RIGHTS AFTER LAYOFF**

#### **17.1 Layoffs and Professional Contracts**

Whenever an agency submits a plan to use layoff avoidance measures or conduct a layoff, the Director may order a review of all contracts.

#### **17.2 Notification of Layoff Avoidance Measures or Layoff**

- (a) The appointing authority shall, as soon as it is determined that a layoff or a layoff avoidance measure is necessary, make a reasonable attempt to notify all employees in the area(s) to be affected. If it is known that a layoff or layoff avoidance measure will be required, but the area(s) to be affected has not been determined, then a reasonable attempt to notify all employees that they may be affected shall be made.
- (b) Once a layoff plan or layoff avoidance plan is approved by the Director it shall be made generally available to employees in that agency.

#### **17.3 Exceptions to Layoff Avoidance and Layoff Rules**

- (a) Exceptions to provisions in these Rules may include employees who possess particular qualifications needed to complete an essential program or to maintain essential services necessary to preserve the life, health or welfare of the public. The Director must approve such exceptions.
- (b) The Director may give interim approval to further exceptions to these Rules. Such interim approvals are granted subject to ratification by the Commission at the next regularly scheduled meeting. The Director may, if he so desires, refer exceptions to the Commission for approval without giving interim approval.
- (c) The director may give approval to any furlough, for a period not to exceed 45 calendar days, when such furlough is needed to develop and work a layoff plan and prevent a deficit or further deficit in an agency's budget.

#### **17.4 Restrictions and Expansion of Areas for Layoff Avoidance Measures and Layoffs**

With written justification to the Director, the appointing authority may request that the organizational unit(s), subject to layoff avoidance measures or layoffs, be broadened or confined to one institution or activity of the agency, office, or department. Requests by the appointing authority for restrictions of layoff avoidance measures and/or layoffs involving career fields, classes, organizational units and geographic areas, may receive interim approval by the Director, but shall be subject to Commission approval at its next regularly scheduled meeting. The Director may, on his own initiative, expand layoffs or layoff avoidance measures to include the expansion of a career field(s), other career fields, classes, organizational units, and geographic areas. If the appointing authority does not agree to the expansion, the expansion shall be submitted to the Commission for determination at its next regularly scheduled meeting.

#### **17.5 Layoff Avoidance Measures**

- (a) Layoff avoidance measures shall consist of early retirement incentives, withholding of merit increases, reduction in work hours, reduction in rates of pay, and furloughs without pay.
- (b) Layoff avoidance measures may only be taken and utilized in accordance with the provisions of these Rules.
- (c) Nothing in these Rules shall prevent an appointing authority from issuing a general request for volunteers for voluntary layoff avoidance measures. Such volunteers shall be reported as such on the personnel action and shall be entitled to the same protection and rights granted employees under forced layoff avoidance measures.

#### **17.6 Combinations or Successive Use of Layoff Avoidance Measures**

Whenever two or more layoff avoidance measures are used in combination or successively and the total time period of the combination or successive use will exceed three calendar months, approval of the Commission must be obtained.

#### **17.7 Salary Increases When Utilizing Layoff Avoidance Measures**

- (a) Whenever an appointing authority uses any layoff avoidance measures, no optional pay increases in that

affected organizational unit may be given without first obtaining Commission approval for the organizational units, activities, or classes that will be excepted from this provision.

(b) Exceptions to Rule 17.7(a) shall be the following:

1. No pay restrictions are imposed when only the work week is reduced for every employee, excluding those exempted under Rule 17.3(a), in the organizational unit affected.
2. An appointing authority may restore an employee to the previous pay he held prior to a reduction in pay, then effect a personnel transaction; after such a transaction is made, the employee must be reduced in pay as uniformly as possible and in accordance with other pay reductions in effect for other employees.

(c) Nothing elsewhere in the Rules shall prevent an employee from prospectively obtaining the maximum pay benefits from any personnel transaction after layoff avoidance measures are terminated.

#### **17.8 Leave and Temporary Transfers**

Employees on leave and temporary interdepartmental transfers shall be subject to the same avoidance measures as other employees.

#### **17.9 Order of Implementation in Layoff Avoidance Measures**

- (a) Whenever an appointing authority uses any layoff avoidance measures, that do not under these Rules affect all employees in an organizational unit as uniformly as possible, length of State service shall be a primary determining factor in effecting these measures. Employees with the least State service in the affected classes and organizational units shall be, uniformly as possible under these Rules, reduced in pay, uniformly reduced in work hours, or furloughed, first.
- (b) Recall from furlough, or restoration of work hours and pay shall be on the basis of length of State service in the classification affected. Employees with the most State service shall be recalled from furlough, or restored to their previous pay and work hours, first.

- (c) Recalls not involving all State employees affected by layoff avoidance measures shall constitute modification to the layoff avoidance plan and shall be reported to the Director for approval.

#### **17.10 Appointments Under Layoff Avoidance Measures**

- (a) Whenever an appointing authority uses any layoff avoidance measures he must first terminate restricted and job appointments in the affected organizational unit(s), and; if such appointments must later be made by the appointing authority, they must be given interim approval by the Director within fourteen calendar days of the appointment, subject to ratification by the Commission within sixty calendar days of the appointment, or terminated.
- (b) Probational and provisional appointments may be made, but employees in such appointments shall be subject to the same layoff avoidance measures as permanent employees in that classification.

##### **17.10.1 Withholding of Merit Increases to Avoid Layoff**

When an appointing authority determines that it is necessary to withhold merit increases after June 30, 1989, of all employees under his jurisdiction in order to avoid a layoff, he may do so, subject to the following provisions:

- (a) Any withholding of merit increases must receive approval of the Director, no later than fourteen calendar days after the effective date, based on written certification from the appointing authority that his department does not have sufficient funds to give such increases to all employees. This justification shall include the reasons for the withholding of merit increases, the names and jobs of those employees to be excluded, if any, and reasons for their exclusion, the proposed effective dates and periods of time involved, and the organizational unit(s) and geographic area(s) affected. If the request or any part thereof is not approved by the Director, the employees included in the plan or portion of the plan not approved must be paid their merit increase for that period of time between the proposed effective date and date of the Director's determination. In all cases of disapproval by the Director, his decision shall be subject to the Commission's ratification, at its next regularly scheduled meeting.

- (b) Authority for such withholding of merit increases shall not exceed one twelve consecutive month period, subject to Rule 17.6.
- (c) Employees whose merit increases are withheld according to the provisions of this Rule shall retain their eligibility for such increases.

#### **17.11 Reductions in Pay to Avoid Layoff**

When an appointing authority determines that it is necessary to reduce the salaries of employees under his jurisdiction in order to avoid a layoff, he may do so, subject to the following provisions:

- (a) Any pay reduction must receive approval of the Director, no later than fourteen calendar days after the effective date, based on a written request and Justification from the appointing authority. This justification shall include the reasons for the pay reduction, the names and jobs of those employees to be excluded, if any, and reasons for their exclusion, the percent of pay reduced for each employee, the proposed effective dates and periods of time involved, and the organizational unit(s) and geographic area(s) affected. If the request or any part thereof is not approved by the Director, the employees included in the plan or portion of the plan not approved must be paid their regular salary for that period of time between the proposed effective date and date of the Director's determination. In all cases of disapproval by the Director, his decision shall be subject to the Commission's ratification, at its next regularly scheduled meeting.
- (b) Authority for such pay reductions shall not exceed one twelve consecutive month period, subject to Rule 17.6.
- (c) An employee=s pay may be reduced a number of salary rates not to exceed a total value of 12% without approval of the Commission. An employee=s pay shall not be reduced a number of salary rates which exceed a total value of 24%.
- (d) Employees having red circle rates under Rule 6.15, may be reduced to their true eligibilities, plus an additional number of salary rates not to exceed a total value of 12%, without approval of the Commission.

- (e) Employees who are being paid 12% or less above the hiring rate for their pay range may be reduced below the hiring rate by no more than 12%. The appointing authority does not have to reduce an employees pay below the hiring rate of their pay range to satisfy the uniformity provisions of these rules.
- (f) Special entrance rates are not considered the hiring rate of the pay range in applying these rules.
- (g) Employees so reduced in pay shall retain their eligibility for all pay increases.
- (h) An employee shall be restored to the pay rate he held when the reduction was effected, and may be given a higher pay for which he is eligible, at the end of the period of pay reduction or upon an intervening personnel transaction which ends the period of pay reduction for that employee.

#### **17.12 Reduction in Work Hours to Avoid Layoff**

When an appointing authority determines that it is necessary to reduce the work hours of employees under his jurisdiction in order to avoid a layoff, he may do so, subject to the following provisions:

- (a) Any reduction in work hours must receive approval of the Director, no later than fourteen (14) calendar days after the effective date, based on a written request and justification from the appointing authority. This justification shall include the reasons for the reduction, the names and classifications of any employees to be excluded and reasons for their exclusion, the number of work hours reduced for each employee, the proposed effective dates and periods of time involved, and the organizational unit(s) and geographic area(s) affected. If the request or any part thereof is not approved by the Director, then the employees included in the plan or portion of the plan not approved, must be paid for all hours reduced between the proposed effective date and date of the Director's determination. In all cases of disapproval by the Director, his decision shall be subject to the Commission's ratification at its next regularly scheduled meeting.
- (b) Authority for such pay reductions shall not exceed one twelve consecutive month period, subject to Rule 17.6.



- (c) The number of work hours reduced for an employee shall not exceed sixteen (16) hours per biweekly payroll period.
- (d) An employee so reduced in work hours shall be subject to the same leave and overtime Rule provisions as apply to employees on regular parttime status. Any hours worked over the employees' reduced work week shall be compensated with nonpayable compensatory time, except for those hours which exceed a forty hour workweek.
- (e) An employee shall be restored to the same number of hours he worked at the end of the period of work hour reduction or upon an intervening personnel transaction which ends the period of work hour reduction for that employee.

#### **17.13 Furlough to Avoid Layoff**

When an appointing authority determines that it is necessary to furlough employees without pay under his jurisdiction in order to avoid a layoff, he may do so, subject to the following provisions:

- (a) Any furlough without pay must receive approval of the Director, no later than fourteen calendar days after the effective date, based on a written request and justification from the appointing authority. This justification shall include reasons for the furlough, the names and classifications of those employees to be excluded and reasons for their exclusion, the total hours or days of furlough for each employee, the proposed dates and periods of time involved, and the organizational unit(s) and geographic area(s) affected. If the request or any part thereof is not approved by the Director, then the employees included in the plan or portion of the plan not approved, must be paid for all hours furloughed between the proposed effective date and date of the Director's determination. In all cases of disapproval by the Director, his decision shall be subject to the Commission's ratification, at its next regularly scheduled meeting.
- (b) An employee shall not be furloughed for more than a total of 240 work hour in any twelve calendar month period without approval of the Commission. With approval of the Commission, an employee may be

furloughed for a total of 450 work hours in a twelve calendar month period.

- (c) Any employee furloughed shall be subject to the provisions of Rules 11.27(c) and (f) and Rule 17.6.

#### **17.14 Notification and Authority for Layoff**

When an appointing authority determines that it is necessary to reduce force, and when such decision affects any permanent employee(s), the necessary number of employees shall be laid off subject to the following procedures:

- (a) Except as provided for in the second paragraph of this subsection, the appointing authority shall select the organizational unit(s), the geographic area(s), the career field(s) and class level or class(es) where the layoff shall begin. In the event a career field is not established the layoff shall take place in a class or classes selected by the appointing authority and approved by the Director.

A layoff caused by a displacement occurring pursuant to Rule 11.27.1(d), shall be limited to the geographic area of the domicile of the employees classified position.

- (b) The appointing authority shall submit to the Director for his approval, a formal written plan for the proposed layoff of at least two (2) calendar weeks prior to the effective date of the layoff. With justification the Director may waive the two week advance notice for a lesser reasonable time but such notice shall always be prior to the effective date. This plan shall include, but not necessarily be limited to, the following:

1. Reasons why the layoff is being proposed.
2. Layoff avoidance measures used, or statement of why none was used.
3. The budgetary measures, other than layoff avoidance, that have been taken to avoid the layoff.
4. Proposed effective date of the layoff.
5. The affected organizational unit(s).

6. Geographic area(s) affected.
  7. The classes, the number of positions within each class, and the career fields selected for the layoff.
  8. Names and classifications of employees, if any, who require exemption from layoff and the extenuating reasons for exemption. Exemptions include employees who possess particular qualifications needed to complete an essential program or to maintain essential services necessary to preserve the life, health, or welfare of the public.
  9. Names and pay of employees with unclassified authority under Rule 4.1(d)1 or 4.1(d)2.
  10. Contracts either signed, effective, or anticipated that may be causative factors or related to the layoff.
- (c) Once such a plan is approved by the Director the plan shall be made generally available to employees in that agency.
- (d) There shall be at least five (5) calendar days between notification to employees whose positions are proposed for abolishment and approval of the layoff plan by the Director.
- (e) There shall be at least ten (10) calendar days between the last displacement offer, or layoff notification if there is no offer to make, and the effective date of layoff.

**17.14.1 Notification and Authority for a Layoff of Probational Employees Only**

When an appointing authority determines that it is necessary to reduce force by the layoff of probational employees only, he shall notify the Director by submission of the applicable Standard Form(s) 1 prior to the effective date of the layoff.

**17.15 Employees Subject to Layoff**

- (a) Subject to the provisions of Rule 17.21, all employees, including those absent from duty on approved leave with or without pay, in the class(es)

affected by the layoff, or on detail or temporary interdepartmental assignment

from such class or classes, who work in the organizational unit(s) as approved by the Director in Rule 17.14, shall be subject to the layoff and shall be in competition for the purpose of determining which employee(s) will be laid off.

- (b) A reasonable attempt by the appointing authority, to notify permanent employees affected by a layoff action of their eligibility to be placed on the department preferred reemployment list shall be made no later than two weeks after the effective action

#### **17.16 Order of Layoff by Appointment and Status**

The order of layoff in the affected class(es), career fields, organizational unit(s), and commuting area(s) shall be by the type of appointment as follows: restricted, job, provisional, probational, parttime permanent employees, fulltime permanent employees.

- (a) Within each permanent appointment status, layoff shall be according to length of State service; those with the least service shall be laid off first, subject to Rule 17.16.1.
- (b) Permanent employees, including those specified in Rule 7.11, who have veterans preference and whose length of State service and efficiency ratings are at least equal to those of other competing employees shall be retained in preference to all other competing employees.

##### **17.16.1 Employees with Unsatisfactory Service Ratings**

- (a) Within the affected class, commuting area and organization unit affected by a layoff, permanent employees whose two most recent service ratings were unsatisfactory shall be laid off before any other permanent employee is laid off.
- (b) In the event that the number of permanent employees whose two most recent service ratings were unsatisfactory exceeds the number of positions to be abolished, the least senior employees with such unsatisfactory service ratings shall be laid off first.

- (c) Within each class, commuting area and organizational unit impacted by a layoff, permanent employees whose two most recent service ratings were unsatisfactory shall be displaced before any other permanent employee is displaced.
- (d) In the event that the number of permanent employees whose two most recent service ratings were unsatisfactory exceeds the number of persons to be displaced, the least senior employees with such unsatisfactory service ratings shall be displaced first.
- (e) Subject to the provisions of subsection (d) of this Rule, permanent employees whose two most recent service ratings were unsatisfactory may only displace employees who do not have permanent status.
- (f) For purposes of this rule, an employee is considered as having two unsatisfactory service ratings when the delays for appealing both ratings have expired and the employee has not appealed the ratings or, if the ratings have been appealed, when final decisions of the Commission have been rendered on the appeals.
- (g) Exceptions to this rule may be granted in accordance with Rule 17.3(b) upon adequate written justification presented by the appointing authority.

#### **17.17 Displacement Rights of Permanent Employees**

Only permanent employees have the right to displace other employees. An employee does not have displacement rights to a higher position than the one he occupies at the time of the layoff action which affects him. Subject to the following provisions, a permanent employee who is affected by a layoff has the right to displace another employee who occupies the same, an equivalent, or lower job in the same career field, organizational unit and applicable commuting area affected by his layoff, subject to the provisions of Rules 17.16 and 17.16.1. An employee who displaces another, must meet the job qualifications for the position involved. A parttime permanent employee shall not displace a fulltime permanent employee.

- (a) A permanent employee affected by a layoff shall have the right to displace, subject to subsection (c) of this rule, permanent employees with less State service. Regardless of length of State service, a permanent employee who meets the job qualifications

shall always have the right to display a provisional or probationary employee.

- (b) Within each affected job, employees with the least total State service shall be displaced first.
- (c) Offers of displacement to occupied positions for which the employee qualifies shall be made by the appointing authority in the following manner and order:
  - 1. All offers shall be made with a minimum reduction in pay range.
  - 2. Preference in making offers shall be given by length of State service with first preference being given to those affected employees with the most State service.
  - 3. Offers to displaced employees may cease when the first available offer listed above is accepted or declined by that employee.
  - 4. If the employee declines or if no offers are available, the employee(s) is subject to layoff.
  - 5. Vacancies may be offered in lieu of occupied positions, except in layoffs caused by a displacement occurring pursuant to Rule 11.27.1(d), vacancies shall be offered in lieu of occupied positions.
  - 6. The first offer shall be to a position in the same job title and parish, if such a position is available.
  - 7. The second offer shall be to a position in an equivalent job in the same career field and the same parish, if such a position is available.
  - 8. The third offer shall allow the employee to make a choice of one of the following, if available:
    - a. A position in the next available lower level job within the employee's career field and parish, or
    - b. A position in the same job title and in the

same commuting area, or if no such position exists, to a position in an equivalent Job within the career field and the commuting area.

- c. A position in the next lower job in the career field and within the commuting area which is higher in pay range than the offer available within the parish.
9. The fourth offer shall allow the employee to make a choice of one of the following if available:
- a. A position in the highest job outside the career field, as long as it is higher than the offer in the career field, occupied by a probationary or provisional employee, in the same parish and organization unit, or
  - b. The highest such position available in the commuting area as long as it is higher than the job in the employee's parish.
- (d) Employees whose official domicile is "Statewide" shall, for the purpose of offers of displacement, be considered domiciled in the parish in which they officially reside.
- (e) Employees who live and work outside of Louisiana shall, for the purpose of offers of displacement, be considered domiciled either in the parish in which they have an official residence, or at their department's central headquarters. The employee must use the parish of his official residence, if he has one.

**17.18 Repealed, effective August 7, 1985.**

**17.19 Pay Reductions.**

- (a) Layoffs Not Required Solely By Budgetary Cuts

No pay reductions shall occur when employees are placed in lower pay ranges in layoffs not required solely by budgetary cuts. This includes those employees whose pay rates fall in between salary rates or above the highest salary rate of the range for the position to which they are moved, as provided for in Rule 6.15(d)(7).

(5) Layoffs Required Solely By Budgetary Cuts

In layoffs required solely by budgetary cuts, the appointing authority may set the employees pay at any salary rate within the lower pay range which does not exceed their current rate of pay and the salary rate designated for the total number of years of State Police Service by the employee. The percentage of pay reductions resulting from employees being placed in lower pay ranges shall be uniform, unless a written request with justification is approved by the Director. Such reductions shall not result in an employee=s being paid above the highest established salary rate or below the hiring date of the range for the position to which they are moved as a result of layoff.

- (6) In layoffs caused by a displacement occurring pursuant to Rule 11.27.1(d), no classified pay reductions shall occur. This provision includes employees whose pay rates fall between salary rates or above the highest salary rate of the range for the position to which the employee is moved, as provided for in Rule 6.15(d) (7).

**17.20 Use of Annual Leave in Layoff Avoidance Not Requiring Submission of a Plan**

A department or agency, when the efficiency of operations dictates a temporary closure, may require employees to utilize up to a maximum of ten days of annual leave per calendar year:

1. Employees needed to maintain the buildings may be excepted.
2. Employees who have less than thirty days of annual leave may be required to take annual leave under this provision.
3. Employees, who have exhausted annual leave, shall be placed on leave without pay, but not for more than ten days per calendar year.

**17.21 Special Provisions for Veterans in Layoffs**

- (a) A veteran who has been restored to duty under the provisions of Rule 8.19 of these Rules and who



thereafter competes in a layoff shall be granted prior service credit for the period of time served as a member of the armed forces of the United States on which the restoration was based.

- (b) An employee being restored to duty under the provisions of Rule 8.19 of these Rules shall not be required to compete with other employees in a layoff conducted to permit his restoration to duty.

## **17.22 Ties**

Rule 17.16(b) shall be used, if applicable, in breaking ties among employees who have the same length of State service. Below are listed other methods by which ties may be broken. The method or methods of breaking ties must be applied uniformly. Subject to Rule 17.21 ties may be broken by: (a) length of service in the position, or (b) length of service in the department, or (c) use of leave without pay, or (d) efficiency ratings as defined in Chapter 1.

## **17.23 Reporting Requirements After Layoff**

The appointing authority shall report to the Director in writing within fifteen (15) calendar days from the effective date of the layoff, all personnel actions taken relative to the layoff. The report shall include the names and most current mailing address on file with the affected agency of all employees affected by the layoff, the nature of personnel actions taken, including jobs and offers made, accepted, or declined, and positions involved for ever affected employee.

### **17.23.1 LayoffRelated Appointments**

- (a) The appointing authority shall submit appropriate Standard Forms 1 on all affected employees as soon as all layoff actions are concluded.
- (b) No appointment shall be made in the affected organizational unit or department to the job(s) affected by the layoff or to equivalent or lower levels of positions in the applicable career fields beginning on the date the Director approves the formal layoff plan for the proposed layoff and ending thirty (30) days after the layoff report as stipulated by Rule 17.23 is received at the State Police Commission or upon establishment of the department preferred reemployment list, whichever comes first. Exceptions to this provision include reinstatement, restricted appointment, detail to

special duty not to extend three (3) months beyond the effective date of layoff, job appointment not to extend three (3) months beyond the effective date of layoff, internal demotion, or restoration of a former employee entitled to the position who has returned from military service in accordance with Rule 8.19.

#### **17.24 Department Preferred Reemployment Lists**

A person should apply in writing to his personnel officer or to the State Police Commission no later than thirty (30) calendar days following his layoff in order to insure eligibility for the department preferred reemployment list. This time limit can be extended only with the approval of the Director. Except as provided in Rule 17.16.1(f), eligibility for the department preferred reemployment list does not extend to an employee whose two most recent service ratings were unsatisfactory when he was affected by a layoff action. Also, eligibility for the department preferred reemployment list does not extend to any person who, after being affected by a layoff action, is terminated for disciplinary reasons, or resigns to avoid disciplinary action, except that a person terminated for disciplinary reasons and who is later reinstated will have his eligibility for the department preferred reemployment list restored. Also, a person who retires from state service shall not be eligible for such a list.

An employee's name will be removed from such applicable lists when he declines an offer or fails to respond to an offer. Also, his name will be removed from the list(s) in accordance with subsections (d), (e), (f), (g), and (h), of this Rule. If an employee declines an offer to the same job from which he was laid off, he shall be removed from all preferred lists for which he is eligible. If he declines, fails to respond, or accepts, an equivalent job, he shall stay on the list only for the job from which he was laid off.

- (a) A permanent employee who, under the provisions of Rule 17.15, 17.16 and 17.17 is laid off or officially moved out of his regularly assigned position to another position in a different job title or the same job but in a different parish as the result of a layoff action shall, in accordance with his stated conditions of availability, and after receipt by the State Police Commission of the

layoff report as stipulated in Rule 17.23, have his name entered on the department preferred reemployment list for:

1. the job he held in the affected agency or department at the time of such layoff or movement into another position; however, if an employee is displaced to the same job title, he is eligible only for the parish from which he was displaced.
  2. equivalent or lower levels of jobs for which he qualifies in his career field, subject to Subsection (d) of this Rule; however, an employee who is displaced, as opposed to actually laid off, shall be eligible to be placed on such list only for the jobs down to but not including the GS level to which he was displaced, but shall be eligible for the same job title in the parish from which he was displaced.
- (b) During the time a former or otherwise affected employee's name remains on a department preferred reemployment list, the Director may, upon his own initiative, place such employee's name on one or more such lists for other equivalent or lower classes of positions for which he qualifies in his career field and other substantially similar classes.
- (c) The names of laid off or displaced permanent employees on the department preferred reemployment lists shall be ranked in the order of length of State service they had at the time of the layoff. Among those whose length of State service is identical, all shall be considered to have the same ranking. The employee with the most State service for a given class and availability shall be given the first offer.
- (d) If a permanent employee was laid off or officially moved because of a layoff action from a position in a job that has undergone a change in the qualification requirements or title, such employee shall be entitled, on proper request, to have their name placed on the preferred reemployment list for the newly revised job title, equivalent, and lower level jobs in the same career field for which they

are required to meet the new minimum qualification requirements if sufficient evidence is presented to the Director to show, as determined by the Director, that they are returning to a job having essentially the same duties and responsibilities they were performing when they were affected by layoff, unless the qualification lacking is one required by law or under a recognized accreditation program. If the hiring rate of the pay range for the job or position they occupied at the time of the layoff action has changed upward, they shall have eligibility for such position. This eligibility shall not be limited by a change in the job title or general increase, as defined in Chapter 1 of these Rules, or a market grade job assignment as defined by Rule 6.6, or an allocation adjustment effective January 1, 1987.

- (e) When a former or otherwise affected employee is offered reemployment to a permanent position following certification from a department preferred reemployment list, his name shall be removed from the list from which certified and from all other such lists applicable to equivalent or lower level positions in the career field of the position offered, but shall remain on such lists applicable to higher level positions.
- (f) The name of an employee who attains permanent classified status in any position in any State Department other than from a department preferred reemployment list shall be removed from all such lists applicable to the same, equivalent or lower level positions in the same career field from which the employee was laid off or otherwise affected.
- (g) The Director may remove from any department preferred reemployment list the name of any person who is not qualified, is not available, or, upon investigation, is not found suitable for appointment to the position for which the list was established.
- (h) The maximum period during which a former or otherwise affected employee's name may remain on a department preferred reemployment list(s) shall be three years from the effective date of the applicable layoff. The Director shall remove the employee's name from all such lists at the expiration of that period if it has not been previously removed.

#### **17.25 Noncompetitive Reemployment from a Department Preferred Reemployment List**

When there is a department preferred reemployment list for an agency or department affected by a layoff containing the name of one or more qualified employees available for appointment to a vacant position in the affected agency or department. the vacancy shall be filled only by a reinstatement, restricted appointment, detail to special duty not to extend three (3) months beyond the effective date of layoff, job appointment not to extend three (3) months beyond the effective date of layoff, internal demotion, restoration of a former employee entitled to the position who has returned from military service in accordance with Rule 8.19, or appointment of an eligible from such preferred list. Other details to special duty may be used before appointment from a preferred list, if such details are given prior approval by the Director. Except as provided in this Rule, appointment from a department preferred reemployment list shall take priority over all other methods of filling vacancies.

##### **17.25.1 Open Preferred Reemployment Lists**

The Director shall establish open preferred reemployment lists, consisting of former permanent classified employees separated from state service as the result of a layoff action, and shall determine the eligibility criteria for such lists.

##### **17.25.2 Noncompetitive Reemployment from an Open Preferred Reemployment List**

When an appointing authority determines that it is necessary to fill a position through probational appointment, noncompetitive reemployment of a former employee other than one laid off from and having department preferred reemployment rights in that department, or job appointment in excess of three months, before hiring a person from outside state classified service, he first must hire available eligibles on the open preferred reemployment list. Exceptions to this Rule can be made with the approval of the Director.

#### **17.26 State of Employee Appointed from Department Preferred Reemployment List**

An employee who is reemployed in a permanent position following certification from a department preferred reemployment list shall have permanent status in his position.

#### **17.26.1 State of Employee Appointed from an Open Preferred Reemployment List**

An employee who is reemployed, other than on a temporary basis, from an open preferred reemployment list shall serve a probationary period as provided for in Chapter 9.

#### **17.27 Movement of Employees After Layoff**

An appointing authority may, upon submitting written justification and getting prior approval of the Director, move an employee from one position to another position for which he qualifies in the same pay grade, career field and commuting area after a layoff, if the efficiency of agency operations requires it. Such movement of employees shall not be used to circumvent rehiring from the department preferred reemployment list.

#### **17.28 Changes in Allocations**

Any approval to changes in allocations made subsequent to the submission of a layoff plan shall not affect such layoff.

T/S - 42-Rule 17.5(a)

01/20/2010

## **CHAPTER 18**

### **TRANSITION RULES**

#### **18.1 Purpose and Scope**

These Rules are interim Rules for the purpose of effecting the transition from old titles to new job titles. This Chapter temporarily supersedes all other Rules that are in conflict.

#### **18.2 Pay Upon Allocation to New System Titles**

The Commission, after considering the financial condition of the State, shall designate, or delegate to the Director the authority to designate, either section (a) or (b) below as the method for effecting pay upon allocation.

(a) When minimal funding is available:

1. If the job to which the employee's current position is being allocated is at the same grade level as his current class, his pay shall not be changed.
2. If the job to which the employee's current position is being allocated is at a higher grade level than his current class and his rate of pay is within the new range, his pay shall be adjusted to the step in the range that is closest to his current rate without reducing his rate. Eligibility for pay adjustments as provided in Rule 6.5 shall be retained and shall be paid in accordance with 18.2 (c). The employee's anniversary date shall not be affected and a merit increase may be granted when eligibility under Rule 6.15 (a) is attained.
3. If the job to which the employee's position is being allocated is at a higher grade level than his current class and his rate of pay is below the new range minimum, his pay shall be adjusted to the range minimum. Eligibility for pay adjustments as provided in Rule 6.5 shall be retained and shall be paid in accordance with Rule 18.2 (c). The employee's anniversary date shall not be affected and a merit increase may be granted when eligibility under Rule 6.15 (a) is attained.

4. If the job to which the employee's current position is being allocated is at a lower grade level than his current class, his pay shall not be changed. The employee's anniversary date shall not be affected. If he attains eligibility for a step increase under Rule 6.15 before the application of the new job evaluation system structure, he may be granted a step increase in the amount he would have been eligible for in his former class range. If the employee attains eligibility for a step increase under Rule 6.15 after the application of the new job evaluation system structure, he may receive the step increase in accordance with the Rules implemented for administration of the new structure.

(b) When adequate funding is available:

1. If the job to which the employee's current position is being allocated is at the same grade level as his current class, his pay shall not be changed.
2. If the job to which the employee's current position is being allocated is at a higher grade level than his current class, he shall receive immediately, the maximum adjustment allowable in accordance with the provisions of Rule 6.5.
3. If the job to which the employee's current position is being allocated is at a lower grade level than his current class, provisions of 18.2 (a) 4 of this Rule shall apply.
4. The employee's anniversary date shall not be effected and a merit increase may be granted when eligibility under Rule 6.15 (a) is attained.

(c) An employee who has eligibility for pay adjustments under Rule 18.2 (a) shall be paid in the following manner:

1. No later than January 1, 1988, employees who have eligibility for additional step(s) shall receive a one step pay adjustment.
2. No later than July 1, 1988, employees who have eligibility for the full two step adjustment shall receive their final step adjustment.



3. If the new evaluation system structure is approved anytime prior to January 1, 1988, employees shall retain eligibility for any adjustments which they were due and did not receive under parts 1 and 2 of the Rule.
4. These step adjustments shall be calculated on the employee's current pay rate except for those with red circle rates under Rule 6.28. For these employees, the true rate shall be the base pay on which the adjustment will be calculated.
5. If an employee is promoted on or after January 1, 1987, or his position is reallocated based on a change in duties after January 1, 1987, his pay shall be established in accordance with Rule 6.5.

### **18.3 Qualification Requirements**

An employee who holds a position being allocated to a new job title will not be required to meet the qualification requirements for the job unless there are legitimate barriers, such as licensure, certification, accreditation, restrictive funding requirements, etc., which exceed the credentials possessed by the incumbent.

### **18.4 Layoffs During Transition to the New Classification and Pay System**

All layoffs effective January 1, 1987 and thereafter, must be submitted in the new classification system job titles and career fields assigned at the time the layoff plan is submitted to the Director. Any change to allocations subsequent to the submission of the layoff plan shall not affect the layoff.

## **CHAPTER 19**

### **TRANSITION TO NEW PAY STRUCTURE**

#### **19.1 Repealed, effective January 1, 2015**

#### **19.2 Repealed effective January 1, 2015**

#### **19.3 Pay Upon Movement of Jobs to New Structure Grades**

(a) Each officers individual pay rate shall become the rate of pay assigned to the Salary Rate column representing his/her service tenure as applicable for the pay level assigned to the job for which his/her position is allocated, except as provided in accordance with 19.3 (b).

(b) If the officer had one or more merit increases withheld as a result of substandard performance or insufficient length of active duty due to an extended illness, the State Police Superintendent may set the officer's individual pay rate at the rate assigned to a Salary Rate column equal to his/her number of years State Police Officer service minus a year of service for each merit increase withheld. If this option is applied in the conversion from the old pay plan to the new pay plan, it must be implemented in a uniform manner.

(c) Special pay not included in the Officers base pay such as hazardous duty, shift differential, on-call, extraordinary duty, etc. in effect at the time of movement from the old pay plan to the new pay plan shall remain in effect.

(d) Red circled rates in effect immediately prior to the implementation of the new pay plan shall remain in effect unless the rate of pay for the salary rate column in which the Officer meets eligibility under Rule 19.3 (a) is equal to or greater than the officer's red circled rate.

#### **19.4 Repealed effective January 1, 2015**

#### **19.5 Implementation**

The new pay plan shall implemented in its entirety as the first action to occur on the effective date set by the governor. Any other action(s) occurring on the same date must take place following implementation.

## **CHAPTER 20**

### **PERFORMANCE PLANNING AND REVIEW FOR DIRECTOR AND COMMISSION EMPLOYEES**

#### **1. Performance Planning and Review System for Director and Commission Employees; Required Components**

The Commission shall use a performance planning and review system that complies with this chapter and consists of the following components:

- (1) a performance planning and review form approved by the Commission;
- (2) a seven-level rating system; and
- (3) a performance planning and review training manual that is reasonably accessible to rating supervisors.

Other components may be incorporated upon prior approval by the Commission

#### **2. Rater; Reviewer**

- (1) The rater of the Director shall be the Chairman of the Commission. The reviewer shall be the Commission.
- (2) The rater of Commission employees shall be the Director. The reviewer shall be the Chairman of the Commission.

#### **3. Performance Factors to be Rated**

- (1) The Director and each employee shall be rated on the following performance factors: Work Product; Dependability; Cooperativeness; Adaptability; Communication; Customer Service; and Daily Decision Making/Problem Solving.
- (2) The Director and Supervisory employees shall be rated on the following additional performance factors: Work Group Management and Leadership; Accountability; and Performance Planning and Review.
- (3) The Director and an employee may be rated on additional performance factor(s) applicable to the employee's job.

#### **4. Ratings**

- (1) The rater shall rate the employee on each applicable performance factor, using the following ratings and points:
  1. Outstanding = 5 points
  2. Very Good - 4 points
  3. Good = 3 points
  4. Needs Improvement = 2 points
  5. Poor = 1 point
- (2) The performance factor ratings shall then be averaged and the employee's overall rating shall be assigned based upon the following scale:
  1. Outstanding = 4.50 - 5.00
  2. Very Good = 3.50 - 4.49
  3. Good = 2.50 - 3.49
  4. Needs Improvement = 1.50 - 2.49
  5. Poor = 1.00 - 1.49

#### **5. Performance Planning Session**

- (1) The rater shall conduct a performance planning session, during which the rater shall discuss with the employee the factors upon which the employee will be rated, and the performance that will be expected during the coming rating period. Thereafter, the rater and the employee shall sign and date the performance planning and review form to document the session.
- (2) A performance planning session shall be conducted no later than 30 calendar days after the appointment of a new employee, or the anniversary date of a current employee, or the assignment of an employee into a different position or when the employee is given significantly different duties.
- (3) A performance planning session may be conducted when an employee is assigned a new supervisor or when performance expectations change due to changes in work.

## **6. Rating Process**

- (1) The rater shall complete the performance planning and review form and shall provide the form and any documentation to support a rating of "Needs Improvement" or "Poor" to the reviewer. The reviewer, if satisfied, shall sign the form and return it to the rater who shall then give a copy to the employee and discuss the rating.
- (2) For new employees, the provisions of subsection (1) shall occur within 45 calendar days prior to the employee's eligibility for a merit increase.
- (3) For current employees, the provisions of subsection (1) shall occur within 45 calendar days before the employee's anniversary date.

## **7. Re-Ratings**

An employee whose official overall rating is "Needs Improvement" or "Poor" shall be re-rated no earlier than 3 nor later than 6 months after the employee's anniversary date.

## **8. When a Rating or a Re-Rating Becomes Official**

A rating or re-rating becomes official upon the employee's receipt of the performance planning and review form. Receipt is governed by Rule 12.8(b).

## **9. Employee's Refusal to Sign Form**

If an employee refuses to sign any part of the form, the rater shall note on the form that the employee was given the form, refused to sign, and the date.

## **10. Effects of "Needs Improvement" or "Poor" Rating or Re-Rating**

- (1) An employee whose official overall rating or re-rating is "Needs Improvement" or "Poor" is ineligible for merit increases or promotion.

## **11. Effects of Absence of Official Rating or Re-Rating**

- (1) If the Commission neglects to rate the Director or if the Director neglects to rate an employee prior to his/her anniversary date, the Director or employee shall be considered as having a rating of "Good." If the Commission fails to timely re-rate the Director or if the Director neglects to re-rate the employee rate "Needs Improvement"

or "Poor," the Director or employee shall be deemed to have a re-rating of "Good," as of six (6) months after the Director's or employee's anniversary date.

- (2) If a performance rating or re-rating has not been possible because of the excused absence of the Director or employee due to medical reasons, the rating or rerating shall be delayed until no earlier than 3 nor later than 6 months after the Director or employee's return to duty on a full time basis. Under such circumstances, the rating existing prior to the Director's or employee's absence shall continue in effect in the interim.

## **12. Record-keeping and Reporting Requirements**

- (1) Completed performance planning and review forms shall not be part of the official personnel file and shall not be accessible to the public.

- (2) Each official overall rating of "Needs Improvement" and "Poor" and each official re-rating shall be reported to the Commission within thirty (30) days after a copy of the performance planning and review form has been given to the Director or employee.

## **13. Review of Ratings and Re-Ratings**

Ratings and re-ratings are subject to review as follows:

- (1) The Director or an employee who disagrees with and desires a review of an official overall rating or rerating of "Needs Improvement" or "Poor" must present a written request to the Commission for review of the rating or re-rating.

The request for review must conform to the following:

1. Include a copy of the Performance Planning and Review Form, and any documentation provided to the Director or employee with the form, to request the review.
2. Attach any other documentation supporting the request for review.
3. List the performance factor ratings that are in dispute and for each factor explain why they believe a higher rating was deserved.

4. Be postmarked or received by the Chairman of the Commission within thirty (30) calendar days following receipt by the Director or employee of the Performance Planning and Review Form.

(2) Upon receipt of a timely request for review, the Commission shall:

1. Review the Director's or employee's request (including any attachments) and the official Performance Planning and Review Form (including the attached documentation) if any.

2. Within sixty (60) days after receipt of the request for review, provide the Director or employee with written notice of the outcome of the review.

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## **STATE POLICE SERVICE**

### **LOUISIANA CONSTITUTION OF 1974, ARTICLE X: PART IV §41 -§51**

#### **§41. State Police Service**

Section 41.(A) Service Established. The state police service is established and includes all regularly commissioned full-time law enforcement officers employed by the Department of Public Safety and Corrections, office of state police, or its successor, who are graduates of the state police training academy course of instruction and are vested with full state police powers, as provided by law, and persons in training to become such officers.

(B) Implementation. The provisions of this Part IV shall become effective on January 1, 1991; however, prior to that date members of the State Police Commission shall be selected and take office and shall adopt rules and take actions necessary to implement this Part on January 1, 1991.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

#### **§42. Classified and Unclassified Service**

Section 42.(A) Classified Service. The state police service is divided into the unclassified and the classified service. Persons not included in the unclassified service are in the classified service.

(B) Unclassified Service. The State Police Commission shall determine those positions which shall be in the unclassified service and may provide that any such position shall become classified.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

#### **§43. State Police Commission**

Section 43.(A) Composition. The State Police Commission is established and shall be domiciled in the state capital. It shall be composed of seven members who are electors of this state, four of whom shall constitute a quorum. At least one appointed member shall be from each congressional district. No appointed member shall concurrently serve on another board or commission whose purpose is similar to that of the State Police Commission. In order to implement this requirement, every ten years beginning on the day the members of congress from newly reapportioned congressional districts take office, any vacancy that occurs on the commission shall be filled from a congressional district from which there is no commission member. Only when the membership includes a member from each congressional district may a vacancy be filled by an appointment from the state at large.



(B)(1) Appointment. The members shall be selected, as hereinafter provided, for terms of six years, after initial terms of one year, two years, three years, four years, five years, and six years for the appointed members, as designated by the governor, and six years for the elected member.

(2) No person who has served as a member of the commission for more than two and one-half terms in three consecutive terms shall be appointed or elected to the commission for the succeeding term. This Subparagraph shall not apply to any person appointed or elected to the commission prior to the effective date of this Subparagraph, except that it shall apply to any term of service of any such person that begins after such date.

(C) Nominations. The presidents of Centenary College at Shreveport, Dillard University at New Orleans, Louisiana College at Pineville, Loyola University at New Orleans, Tulane University of Louisiana at New Orleans, and Xavier University at New Orleans, after giving consideration to representation of all groups, each shall nominate three persons. The governor shall appoint one member of the commission from the three persons nominated by each president. One member of the commission shall be elected by the classified state police officers of the state from their number as provided by law. A vacancy for any cause shall be filled by appointment or election in accordance with the procedure or law governing the original appointment or election, and from the same source. Within thirty days after a vacancy occurs, the president concerned shall submit the required nominations. Within thirty days thereafter, the governor shall make his appointment. If the governor fails to appoint within thirty days, the nominee whose name is first on the list of nominees automatically shall become a member of the commission. If any nominating authority fails to submit nominees in the time required, or if one of the named institutions ceases to exist, the governor shall make the appointment to the commission.

(D) Removal. An appointed member of the commission may be removed by the governor for cause after being served with written specifications of the charges against him and being afforded an opportunity for a public hearing thereon by the governor.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991; Acts 2008, No. 935, §1, eff. approved November 4, 2008, eff. December 8, 2008; Acts 2012, No. 870, §2, approved November 6, 2012, effective December 10, 2012.*

#### **§44. Director**

Section 44. The commission shall appoint a director and such personnel as shall be necessary to carry out its duties.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

#### **§45. Appointments; Promotions**

Section 45. Permanent appointments and promotions in the classified state police service shall be made only after certification by the director under a general system based upon merit, efficiency, fitness, and length of service, as ascertained by examination which, so far as practical, shall be competitive. The number to be certified shall not be less than three; however, if more than one vacancy is to be filled, the name of one additional person eligible for each vacancy may be certified. The commission shall adopt rules for the method of certifying persons eligible for appointment, promotion, reemployment, and reinstatement and shall provide for appointments defined as emergency and temporary appointments if certification is not required.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

#### **§46. Appeals**

Section 46.(A) Disciplinary Actions. No person who has gained permanent status in the classified state police service shall be subjected to disciplinary action except for cause expressed in writing. A classified state police officer subjected to such disciplinary action shall have the right of appeal to the commission. The burden of proof on appeal, as to the facts, shall be on the appointing authority.

(B) Discrimination. No classified state police officer shall be discriminated against because of his political or religious beliefs, sex, or race. A classified state police officer so discriminated against shall have the right of appeal to the commission. The burden of proof on appeal, as to the facts, shall be on the state police officer.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

#### **47. Prohibitions Against Political Activities**

Section 47.(A) Party Membership; Elections. No member of the commission and no state police officer in the classified service shall participate or engage in political activity; be a candidate for nomination or election to public office except to seek election as the classified state police officer serving on the State Police Commission; or be a member of any national, state, or local committee of a political party or faction; make

or solicit contributions for any political party, faction, or candidate; or take active part in the management of the affairs of a political party, faction, candidate, or any political campaign, except to exercise his right as a citizen to express his opinion privately, to serve as a commissioner or official watcher at the polls, and to cast his vote as he desires.

(B) Contributions. No person shall solicit contributions for political purposes from any classified state police officer or use or attempt to use his position to punish or coerce the political action of a classified state police officer.

(C) Political Activity Defined. As used in this Part, "political activity" means an effort to support or oppose the election of a candidate for political office or to support a particular political party in an election. The support or opposition of a candidate seeking election as the classified state police officer member of the State Police Commission, issues involving bonded indebtedness, tax referenda, or constitutional amendments shall not be prohibited.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

#### **§48. Rules; Investigations; Wages and Hours**

Section 48.(A) Rules. (1) Powers. The commission is vested with broad and general rule making and subpoena powers for the administration and regulation of the classified state police service, including the power to adopt rules for regulating employment, promotion, demotion, suspension, reduction in pay, removal, certification, qualifications, political activities, employment conditions, compensation and disbursements to employees, and other personnel matters and transactions; to adopt a uniform pay and classification plan; to require an appointing authority to institute an employee training and safety program; and generally to accomplish the objectives and purposes of the merit system of state police service as herein established. It may make recommendations with respect to employee training and safety.

(2) Veterans. The director shall accord a five-point preference in original appointment to each person honorably discharged, or discharged under honorable conditions from the armed forces of the United States who served in the Vietnam Era from July 1, 1958 through May 7, 1975, except the period of July 1, 1958 through August 4, 1964, shall apply only to those who served within the area known as the Vietnam Theater; or during a war declared by the United States Congress; or in a peacetime campaign or expedition for which campaign badges are authorized; or for at least ninety days after September 11, 2001, for reasons other than training; or during war period dates or dates of armed conflicts as provided by state law enacted by two-thirds of the elected members of each house of the legislature.

The director shall accord a ten-point preference in original appointment to each honorably discharged veteran who served either in peace or in war and who has one or more disabilities recognized as service-connected by the Veterans Administration; to the spouse of each veteran whose physical condition precludes his or her appointment to the state police service; to the unremarried widow of each deceased veteran who served in a war period, as defined above, or in a peacetime campaign or expedition; or to the unremarried widowed parent of any person who died in active wartime or peacetime service or who suffered total and permanent disability in active wartime or peacetime service; or the divorced or separated parents of any person who died in wartime or peacetime service or who became totally and permanently disabled in wartime or peacetime service. However, only one ten-point preference shall be allowed in the original appointment to any person enumerated above. If the ten-point preference is not used by the veteran, either because of the veteran's physical or mental incapacity which precludes his appointment to the classified state police service or because of his death, the preference shall be available to his spouse, unremarried widow, or eligible parents as defined above, in the order specified. However, any such preference may be given only to a person who has attained at least the minimum score required on each test and who has received at least the minimum rating required for eligibility.

3) Layoffs; Preference Employees. When a position in the classified state police service is abolished, or must be vacated because of stoppage of work from lack of funds or other causes, preference employees (ex-members of the armed forces and their dependents as described in this Section) whose length of service and efficiency ratings are at least equal to those of other competing employees shall be retained in preference to all other competing employees. However, when any function of the state police is transferred to, or when the state police is replaced by, one or more other state agencies, every preference employee in classifications and performing functions transferred, or working in the state police, shall be transferred to the replacing state agency or agencies for employment in a position for which he is qualified before that state agency or agencies appoint additional employees for such positions from eligible lists. The appointing authority shall give the commission written notice of any proposed lay-off within a reasonable length of time before its effective date, and the commission shall issue orders relating thereto which it considers necessary to secure compliance with the rules. No rule, regulation, or practice of the commission, of any agency or department, or of any official of the state shall favor or discriminate against any applicant or employee because of his membership or nonmembership in any private organization; but this shall not prohibit the Department of Public Safety and Corrections, office

of state police, or its successor, from contracting with an employee organization with respect to wages, hours, grievances, working conditions, or other conditions of employment in a manner not inconsistent with this constitution, law, or a valid rule or regulation of the commission.

(4) Effect. Rules adopted pursuant hereto shall have the effect of law and be published and made available to the public. The commission may impose penalties for violation of its rules by demotion in or suspension or discharge from position, with attendant loss of pay.

(B) Investigations. The commission may investigate violations of this Part and the rules, statutes, or ordinances adopted pursuant hereto.

(C) Wages and Hours. Any rule or determination affecting wages or hours shall have the effect of law and become effective only after approval by the governor and subject to appropriation of sufficient funds by the legislature.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991; Acts 2004, No. 930, §1, approved Nov. 2, 2004, eff. December 7, 2004.*

#### **§49. Penalties**

Section 49. Willful violation of any provision of this Part shall be a misdemeanor punishable by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

#### **§50. Appeal**

Section 50. The State Police Commission shall have the exclusive power and authority to hear and decide all removal and disciplinary cases, with subpoena power and power to administer oaths. It may appoint a referee to take testimony, with subpoena power and power to administer oaths to witnesses. The decision of the commission shall be subject to review on any question of law or fact upon appeal to the court of appeal wherein the commission is located, upon application filed with the commission within thirty calendar days after its decision becomes final.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

## **§51. Appropriations**

Section 51. The legislature shall make adequate appropriations to the State Police Commission to enable it to implement this Part efficiently and effectively. The amount so appropriated shall not be subject to veto by the governor.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991; Acts 1997, No. 1489, §5, approved Oct. 3, 1998, eff. Nov. 5, 1998.*